

TIMOTHY M. KOTROCO, Esq.

305 Washington Avenue, Suite 502

Towson, Maryland 21204

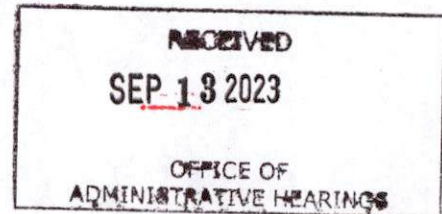
410-299-2943

Tketroco@gmail.com

JB
11/20/18

September 12, 2023

The Honorable Paul Mayhew
Administrative Law Judge for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204



**Re: Request for Extension of Time for Utilization of Special Exception
20920 Old York Road, Case No. 2019-057-X**

Dear Judge Mayhew:

In accordance with section 502.3 of the Baltimore County zoning regulations and on behalf of the owner of the subject property, The Farm, LLC, I am hereby requesting an extension of time for utilization of the special exception granted in case number 2019-057-X.

This particular special exception request came in for a hearing before the Honorable John E. Beverungen. Judge Beverungen approved the special exception request for a solar facility on the subject property by order dated the 27th day of November, 2018. An appeal was filed from the granting of this special exception and the Board of Appeals, by Order dated the 28th day of September 2021, also approved the special exception for this solar facility. A settlement agreement was entered into between the parties and was attached to the Board's decision. (Copy attached)

Given the current state of our economy, the delays and problems associated with the COVID-19 pandemic and for other matters impacting the development process and issuance of permits for this property I am requesting an extension of time from the date of this Order within which to utilize this special exception. If approved, the new date within which to utilize this special exception request will be September 28, 2026. Thank you for your consideration of this request.

Very truly yours,

Timothy M. Kotroco

After considering this request for extension and for good cause stated, I hereby grant an additional 3-year extension of time for a total of 5 years from the date of the original Board of Appeals decision. The new expiration date within which to utilize this special exception shall be September 28, 2026.

However, this extension shall not modify the 30 year use expiration, which shall remain as September 28, 2051 as agreed to by the parties in the settlement agreement incorporated in the Board of Appeals Order.

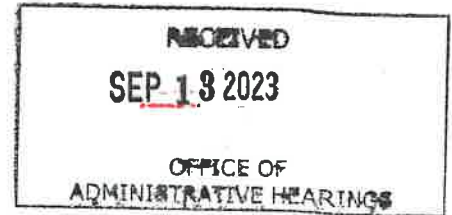
9/15/23
Paul Mayhew, Administrative Law Judge

TIMOTHY M. KOTROCO, Esq.

305 Washington Avenue, Suite 502
Towson, Maryland 21204
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September 12, 2023

The Honorable Paul Mayhew
Administrative Law Judge for Baltimore County
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Paul Mayhew, Administrative Law Judge

9/15/23

IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* **Case No.: 19-057-X**
*

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals ("Board") as an appeal of both the Opinion and Order of Administrative Law Judge ("ALJ") John E. Beverungen, dated November 27, 2018 and an Order Denying Protestants' Motion for Reconsideration (also entered by ALJ Beverungen), dated January 8, 2019. Collectively, these decisions by the ALJ granted, with restrictions, a Petition for Special Exception for a proposed solar facility located at 20920 Old York Road. The Petition was filed by The Farm, LLC (Property Owner) and Forefront Power, LLC, Lessee.¹ Forefront is an energy company which, among other activities, constructs and operates solar facilities. An appeal of ALJ Beverugen's Opinion and Orders was filed by Sparks Glencoe Community Planning Council Inc., Lynne Jones, Lisa Arthur, Emma Arthur and Kathleen Pieper (collectively, the "Protestants"). After some delay, the matter came in before the Board for public hearing. At that requisite public hearing the Petitioner/Property Owner was represented by Lawrence E. Schmidt, Esquire and the Protestants were not represented by counsel.

¹ Although the Petition was filed by Forefront Power, a national energy company, the lease between that entity and the Property Owner was conveyed to FFP MD Community Solar, LLC. This LLC is a business entity created by Forefront Power to develop this specific property/project. The lessees shall be referred to herein simply as "Forefront".

Prior to the Board's hearing, the parties advised the Board that they had reached a settlement as to the issues presented. The terms of the settlement reflected an agreement by the parties that the relief requested should be granted, and that certain conditions be included in the Board's order.² Further, the parties requested, and the Board permitted, that the relevant factual evidence related to this case be presented via a proffer by Mr. Schmidt. A brief summary of those proffered facts is as follows:

FACTUAL BACKGROUND AND ANALYSIS

The subject property is a 52.4-acre tract of land located in a rural area of northern Baltimore County. The property is zoned RC 2. As originally proposed at the time that the Petition was considered by the ALJ, 19.9 acres of the subject property were proposed to encompass the area of the special exception and the proposed solar panel field was to occupy approximately six acres. However, pursuant to the settlement of the parties, the area of the special exception has been decreased to approximately 16.2 acres, although the Settlement Agreement (in order to provide flexibility as the project moves into the permitting phase) provides that the area of the special exception cannot exceed 17 acres. The area occupied by the solar panel field has likely wise been reduced. The details of the proposal, as revised, are shown on the attached site plan, attached hereto as Exhibit B. Additionally, additional and enhanced landscaping has been provided to further buffer and visually screen the proposal from adjacent properties and public roads.

The Board has entertained numerous appeals in the recent years over proposed solar facilities, particularly those facilities proposed in the northern rural areas of Baltimore County. As with the facilities proposed in those cases, the proposal here is for a solar facility developed pursuant to the State of Maryland's community solar program. BCZR Article 4F (adopted by the

² A copy of the settlement agreement is attached hereto as Exhibit A.

County Council via the enactment of Bill 37-17) regulates solar facilities in Baltimore County. BCZR Sec. 4F-102 states that solar facilities are permitted by special exception in the RC 2 zone. Additionally, BCZR Sec. 4F-104 sets forth a number of "requirements" for solar facilities. These include that such facilities cannot be on land encumbered by preservation or agricultural easement, that solar facilities cannot be located within a historic district or on land encumbered by certain environmental easements and that a landscape buffer and security fencing be provided. Additionally, solar facilities must be set back a minimum of fifty (50) feet from the tract boundary, cannot exceed twenty (20) feet in height and shall be designed to reduce glare/reflection onto adjacent properties and roads. The proffered evidence presented was that the proposed facility meets or exceeds all of these requirements as stated in BCZR Sec. 4F-104.

In addition to the requirements promulgated through Bill 37-17, the proposed special exception (as is required of all special exceptions) must satisfy the criteria in BCZR Sec. 502.1. Again, the proffered evidence was that this standard is satisfied and that the special exception proposed in this matter will not cause any detrimental impacts worse here than elsewhere in the zone. (See Schultz v. Pritts, 291 Md. 1 (1981))

As noted hereinabove, the parties hereto reached a settlement of their differences and consummated a settlement agreement. Under the Agreement, Forefront agrees to the following:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
- e. The area of the special exception shall be no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
- f. There shall be no barbed wire used to fence/secure the area occupied by the

solar panels;

- g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
- h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
- i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

Insofar as the Protestants, they have agreed to not opposed the special exception and not challenge or appeal any approval thereof.

Upon due consideration of the proffered testimony and evidence presented, the Board is persuaded to grant the requested relief. The Board finds that the request meets the definitional and other requirements in BCZR 4F and the special exception test set forth in BCZR 502.1 Further, the Board finds the proposed restrictions/conditions as agreed to by the parties to be reasonable and appropriate. Thus, they shall be incorporated in the Board's order.

ORDER

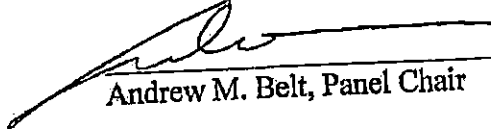
THEREFORE, IT IS this 28th day of September, 2021, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Special Exception to permit a solar facility be and is hereby GRANTED; subject to the following restrictions and conditions:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
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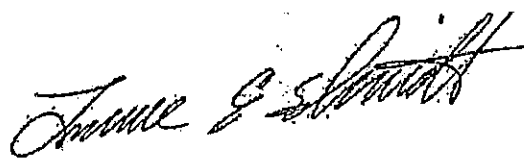
**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair


Sharonne R. Bonardi


Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

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**BOARD OF APPEALS
OF BALTIMORE COUNTY**

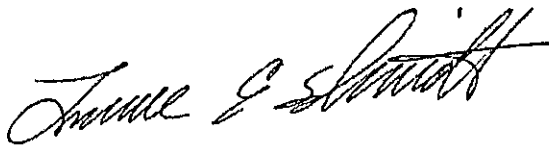
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Andrew M. Belt, Panel Chair



Sharonne R. Bonardi

see following page
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Lawrence E. Schmidt, Attorney for Forefront

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 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**

see previous page
Andrew M. Belt, Panel Chair

see previous page
Sharonne R. Bonardi

Fred M Lauer
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APPROVED AS TO CONTENT AND FORM:

Lawrence E. Schmidt

Lawrence E. Schmidt, Attorney for Forefront

**SETTLEMENT
AGREEMENT**

THIS SETTLEMENT AGREEMENT (referred to hereinafter as the "Agreement") made this 9 day of August, 2021 by and between FFP MD Community Solar, LLC, a Delaware limited liability company ("Forefront") and Sparks Glencoe Community Planning Council, Lisa Arthur, Emma Arthur, Lynne Jones, and Kathleen Pieper (collectively "Protestants");

RECITALS:

WHEREAS, Forefront is the Lessee of certain real property located in the Freeland community of northern Baltimore County, known as 20920 Old York Road (the "Property"); and,

WHEREAS, Forefront is proposing the development of a solar facility on the Property ("Solar Facility Project"); and

WHEREAS, the Baltimore County Administrative Law Judge granted special exception approval of the Solar Facility Project on November 27, 2018, and issued an Order dated January 8, 2019 which denied Protestants' Motion to Reconsider (hereinafter, collectively referred to as the "ALJ Approval Order"); and

WHEREAS, the Protestants filed an appeal of the ALJ Approval Order to the Baltimore County Board of Appeals on February 5, 2019 ("Protestants' Appeal"); and

WHEREAS, the Protestants' Appeal is pending litigation at the Baltimore County Board of Appeals ("BOA Case"); and

WHEREAS, the parties have negotiated to resolve the outstanding issues between them and enter into this Agreement in order to fully and finally resolve the issues between them as it relates to the Solar Facility Project.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.
2. Forefront agrees to the following:
 - a. To develop the Solar Facility Project on the Property as shown on the site plan in **Exhibit A**;

- b. To enhance the landscape buffer previously proposed along the viewshed onto the Property from Old York Road as shown on Exhibit A ;
 - c. To provide for a two-year inspection of the proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
 - d. To reduce the acreage of the special exception to no greater than seventeen (17) acres and to reduce the total number of proposed solar panels, as shown on the attached site plan in Exhibit A;
 - e. To prohibit the use of any barbed wire on the proposed chain link fence;
 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
- a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): Michael Smith
Name: Michael Smith
Title: President
Date: August 8, 2021

WITNESS:

SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL

Signature(By): _____
Name: _____
Title: _____
Date: _____

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Signature(By): _____

Name: _____

Title: _____

Date: _____

WITNESS:

SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL

Signature(By): *Lynne Jones*

Name: LYNNE JONES

Title: PRESIDENT

Date: 8-2-2021

WITNESS:

LISA ARTHUR

Signature: Lisa Arthur
Date: 8/3/2021

WITNESS:

EMMA ARTHUR

Signature: Emma Arthur
Date: 8/3/2021

WITNESS:

LYNNE JONES

Signature: _____
Date: _____

WITNESS:

KATHLEEN PIEPER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For PFP MD Community Solar, LLC

WITNESS:

WITNESS:

WITNESS:

WITNESS:

[Signature]

LISA ARTHUR

Signature: _____

Date: _____

EMMA ARTHUR

Signature: _____

Date: _____

LYNNE JONES

Signature: *[Signature]*

Date: 8.2.21

KATHLEEN PIEPER

Signature: *[Signature]*

Date: 8-2-2021

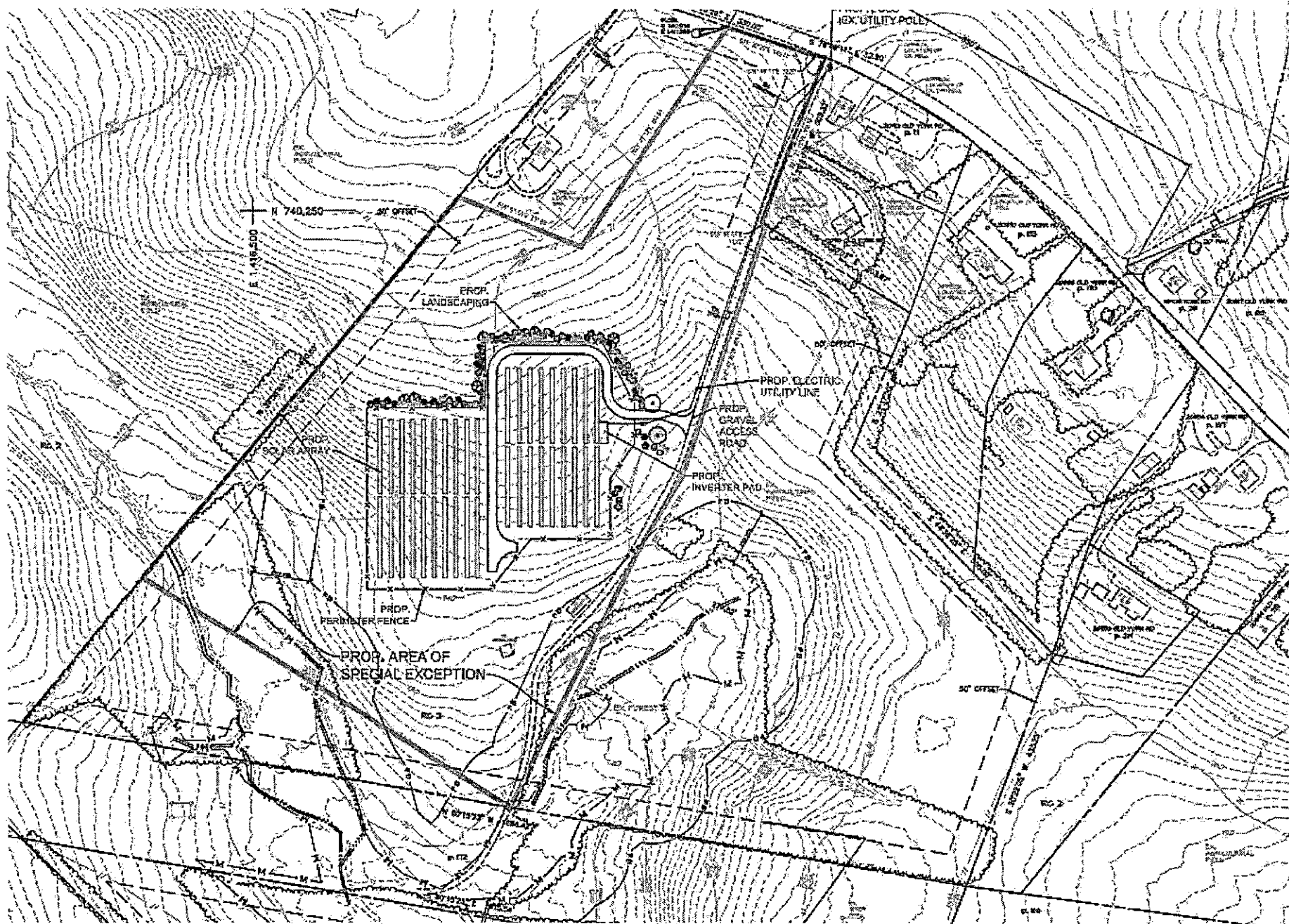
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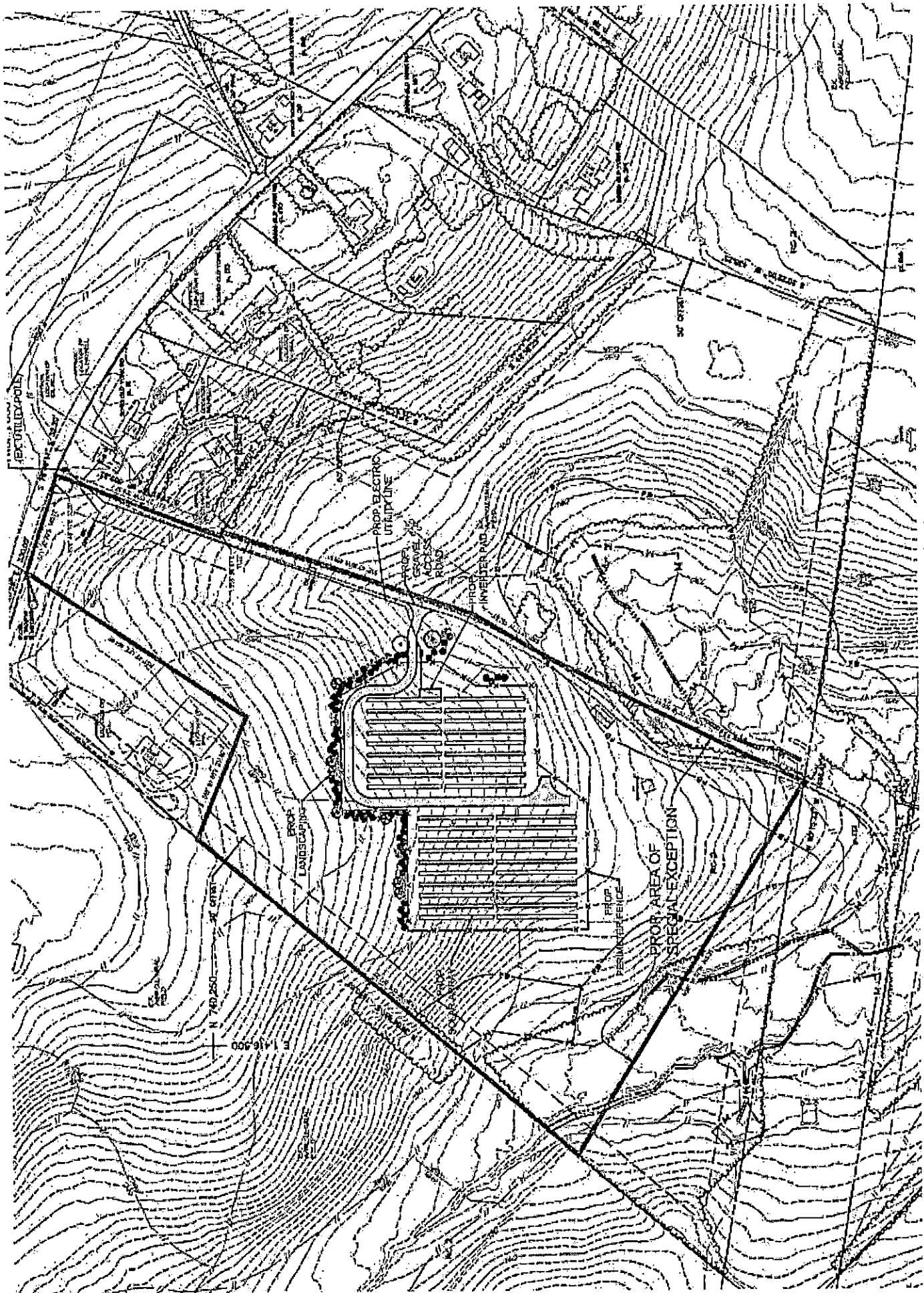
LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

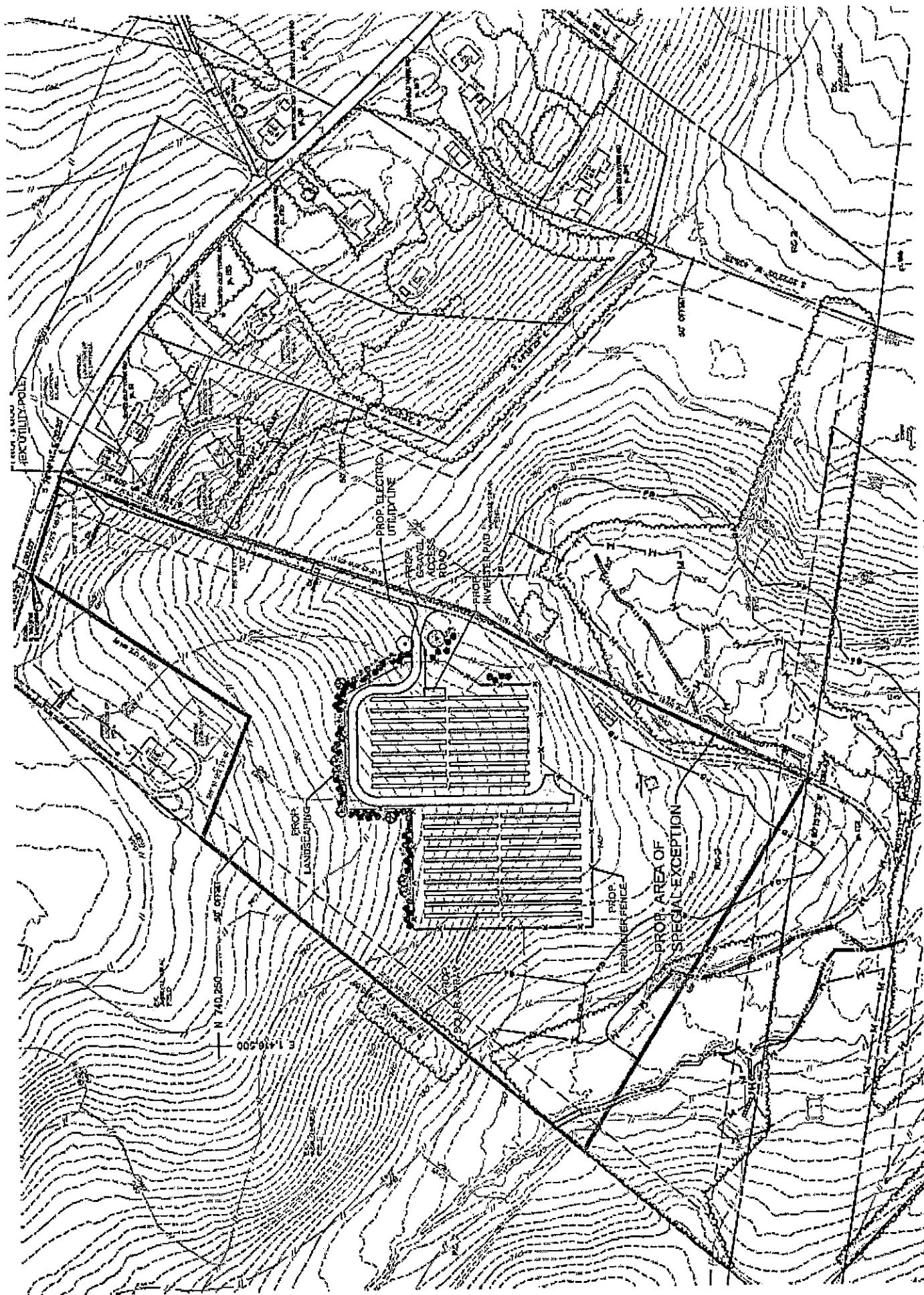
Site Plan (attached)
Referred to herein as Exhibit A



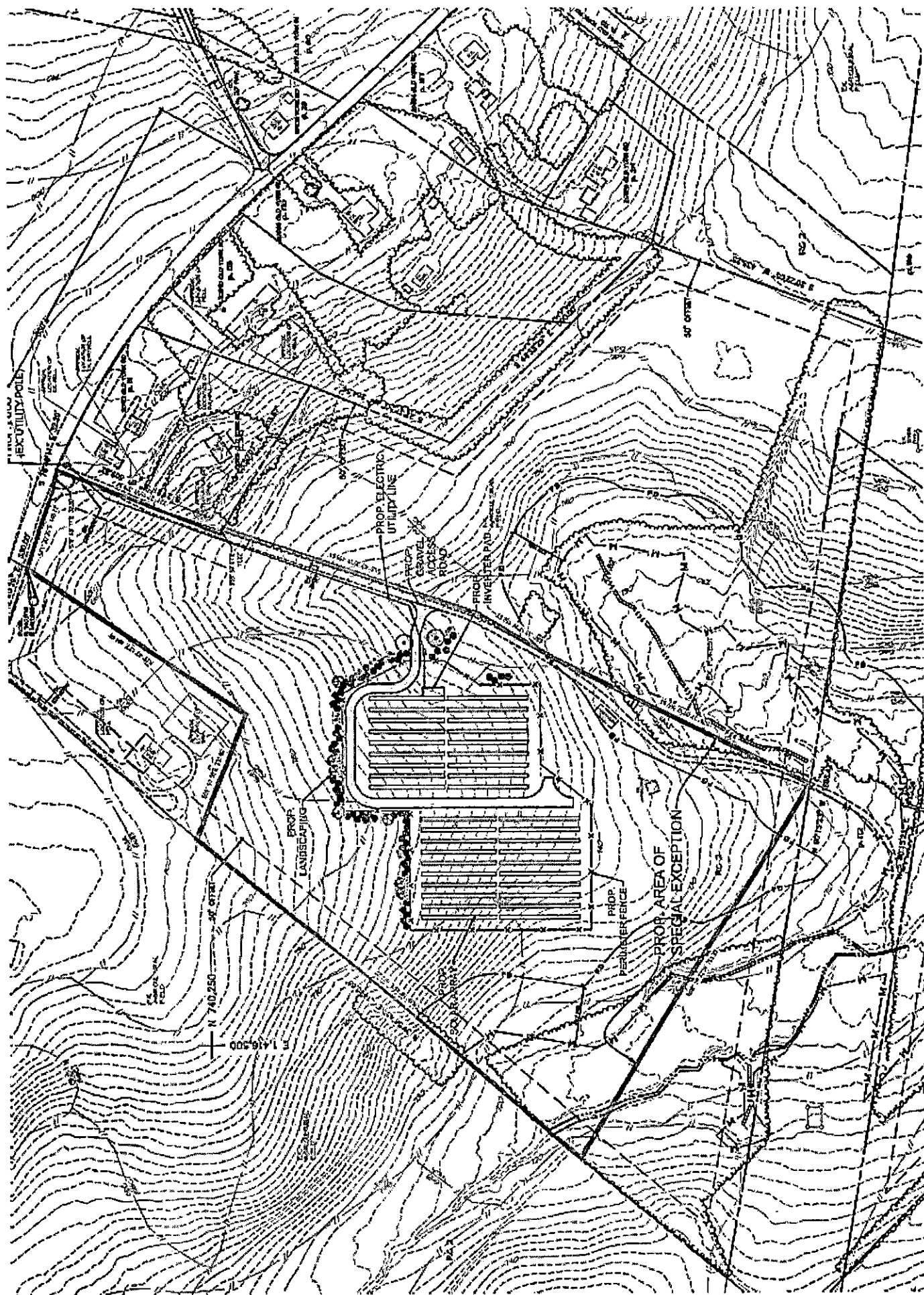
Revised plan with landscaping 1/29/2021



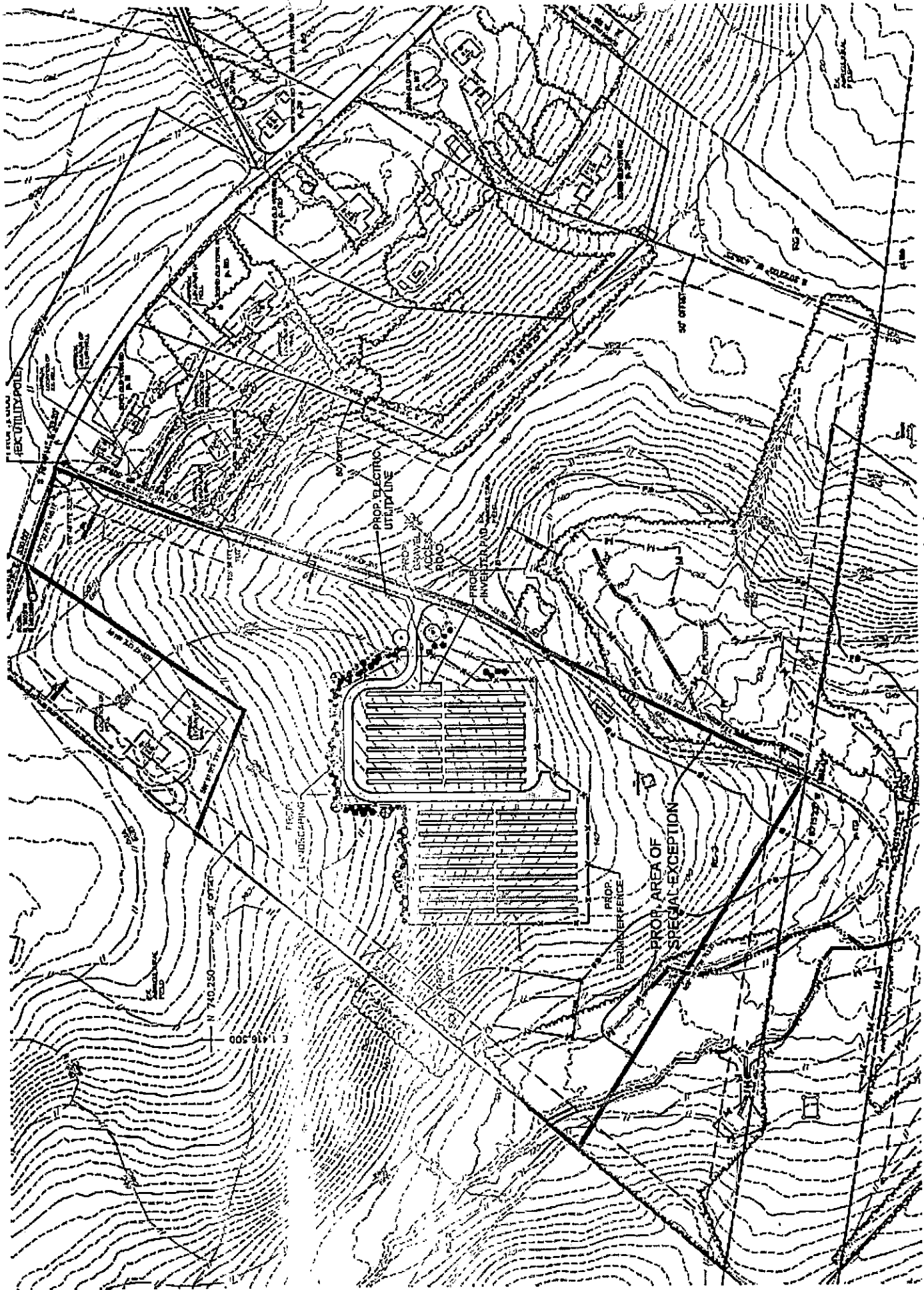
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Revised plan with landscaping 1/29/2021



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

September 28, 2021

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

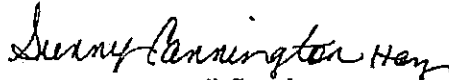
RE: *In the Matter of: The Farm, LLC – Legal Owner*
Forefront Power, LLC – Lessee
Case No.: 19-057-X

Dear Mr. Schmidt:

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,


Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: Dennis Danielczyk, Jr./The Farm, LLC
Brian Maliszewski/Forefront Power, LLC
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Office of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Sparks Glencoe Community Planning Council
Lisa Arthur
Emma Arthur
Lynne Jones
Kathleen Pieper

Address List

Petitioner:

Dennis Danielczyk, Jr.
The Farm, LLC
1600 Shore Road
Baltimore, MD 21220
Legal Owner

Brian Maliszewski
Forefront Power, LLC
100 Montgomery Street, Suite 725
San Francisco, CA 94104
Lessee

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

T. Andrew Brown, P.E.
DS Thaler & Assoc., LLC
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

Protestants/Appellants:

Sparks Glencoe Community
Planning Council, Inc.
Box 937
Sparks, MD 21152

Lisa Arthur
19500 Burke Road
White Hall, MD 21161

Emma Arthur
19500 Burke Road
White Hall, MD 21161

Lynne Jones
815 Stablers Church Road
Parkton, MD 21120

Kathleen Pieper
4310 Beckleysville Road
Hampstead, MD 21074

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

Withdrew Appearance 12/22/2020

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting 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

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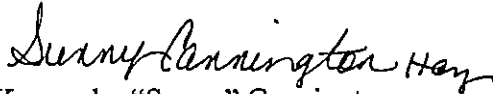
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7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

Protestants/Appellants:

Sparks Glencoe Community
Planning Council, Inc.
Box 937
Sparks, MD 21152

Lisa Arthur
19500 Burke Road
White Hall, MD 21161

Emma Arthur
19500 Burke Road
White Hall, MD 21161

Lynne Jones
815 Stablers Church Road
Parkton, MD 21120

Kathleen Pieper
4310 Beckleysville Road
Hampstead, MD 21074

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

Withdrew Appearance 12/22/2020

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Tammy Zahner

From: Alyssa Moyers <amoyers@sgs-law.com>
Sent: Thursday, September 9, 2021 2:24 PM.
To: Appeals Board
Cc: Lawrence Schmidt; 'cschlesinger@forefrontpower.com'; 'kcrane@forefrontpower.com'; 'bblank@forefrontpower.com'; 'jmotsco@dsthaler.com'; 'dryad101@hotmail.com'; 'knotgarden57@comcast.net'; 'lisaarthur19500@hotmail.com'
Subject: The Farm, LLC/Forefront Power/20920 Old York Road (CBA 19-057-X)
Attachments: Proposed Order.docx; Settlement Agreement (fully executed + exhibit A attached).PDF; Revised Plan with Landscaping 1.29.2021 - for BOA Hearing & Settlement.PDF

CAUTION: This message from amoyers@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good afternoon,

Attached please find a Proposed Order and referenced exhibits for the above referenced matter.

Please let us know if you have any questions or concerns. Thank you.



Alyssa F. Moyers | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(443) 595-7785 (Direct Line)
(410) 821-0070 (Office)
(410) 821-0071 (Fax)
amoyers@sgs-law.com
<http://sgs-law.com>

PLEASE EXPECT A RESPONSE WITHIN 48-HOURS DURING THE NORMAL COURSE OF BUSINESS HOURS. THANK YOU FOR YOUR PATIENCE.

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Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, August 3, 2021 1:08 PM
To: Krysundra Cannington
Subject: RE: Forefront Power (The Farm 19-057-X)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thanks
Whenever you get to it is fine.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070 lschmidt@sgs-law.com | http://secure-web.cisco.com/1_fLXCSQbdHENkNIK47zdpwka3GYkODt2b88foMC7OJRoZd1hLxUH1wkkRwX62u6rGn--m9SsrDMsZ1-Yotyc8szWSTn88n6AR8HV-fmZto_PL1W9CWnjcJdBa0OYLwOJ9czBtXZkLFFWk9A1erJy_LAz15kZxYFB69wWze5Wv9MISCB1GM0hBQMrHi9IVHLGcxLh6Qzt8cC3yTdOSm5Slu13pNqeMcyATEhnzG3tLJlkzXLbrEH4xS3yw5gDVPh8RKF5ug1ZZN2HYXXZ8TMdGaYCy_zTWI8B7Xn4IuEtNM52na5EvRmSX2uZzKESdi-ErLJsuWDtWl1xnp2pq43drpgwqphfQdTH5-SRkQoqclQBAhDv-bFOHYZ6Rkl32EjD4WRNjIBM5xw1ZEvXRY2CPSkEJdSU7h-rWh3tg7NgfD65MUyIUtpNmngV4Ay_QLdnLEhg4id9Bmt399zNUiL4Q/http%3A%2F%2Fwww.sgs-law.com

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-----Original Message-----

From: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Sent: Tuesday, August 3, 2021 1:04 PM
To: Lawrence Schmidt <lschmidt@sgs-law.com>
Subject: RE: Forefront Power (The Farm 19-057-X)

Hi Larry,

Yes. Let me get back to you.

S.

-----Original Message-----

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, August 3, 2021 1:00 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Subject: RE: Forefront Power (The Farm 19-057-X)

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Tuesday, August 3, 2021 1:00 PM
To: Krysundra Cannington
Subject: RE: Forefront Power (The Farm 19-057-X)

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Hi Sunny: as you might know, Alyssa is helping some other attorneys in the office (and expecting her second child in a month or so) and Kelly Benton just had a baby and is on maternity leave. So that leaves me relying on a temp (Jake) who is trying but I am nonetheless struggling through this summer trying to figure stuff out on my own.

With that all said, could you look at your records in reference to the above matter and let me know what exhibits were submitted? This is the case where we reached an agreement with the community. I have/am prepared a settlement and proposed order for the Board and have sent to Lynne Jones on behalf of the community. I am trying to make sure I attach the correct site plans.

I have found in my emails that the Board had the exhibits from the ALJ and that we introduced them in the same order at the Board's hearing. I think we supplemented those exhibits with an exhibit or two including a new(revised) plan?

I have multiple copies of plans and I want to make sure I am referencing the correct one. Can you let me know what you show as exhibits.

HELP! Sorry.
Thanks
Larry

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070 lschmidt@sgs-law.com | http://secure-web.cisco.com/1YY-gH1xVfqEWbTHiyGgJISQmXDOh_afzLiAoO2kPJ3b5Qaq81D7jB6pViFo_w7E2WErWKAJTLcGcbnsMvEmyeKD_Ls9SndgqUGLrb2_ADxaBtFJKNcWCrM5c1P1Ywt7N8qFBsv3HuS9sBPVNu1QDIGK9E-E_ke_nHrXjmjpv7PNCzOjSRM5Cmdh8N9fA1ACU-svdDEAtI4zcAoVyN1kj8ejxz0Y26SqRLwuHHfQ6REP_qr5F1-mwxgt9gjY7fsYSbWXLdBWjZE3pl0aZneFpaEEF9SwlpVspd52GjcjA0KUJ_nBmEINvnAKBZkGiDL7RO6YtIBRWv4sSTWFGtVgxiAJNwb65bisMuT64Kp4XiVlzb3C8la__jB1R5dSSiNpgylOczSSrPEq6er_07p2yxstdw7IOTbSwPPMzKJvS33z5UfwLRbV3SqiCjbP9BSi3UtkUYtWGB2P5c5egnJCUg/http%3A%2F%2Fwww.sgs-law.com

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BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: The Farm, LLC – Legal Owner 19-057-X
 Forefront Power, LLC – Lessee

DATE: July 8, 2021

BOARD/PANEL: Andrew M. Belt, Panel Chairman
 Fred M. Lauer
 Sharonne R. Bonardi

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate a Petition for Special Exception pursuant to BCZR Sections 502.1 and 4F-102 to operate a solar facility in the RC-2 zone.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

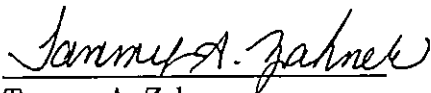
DISCUSSION

- The Board convened for a hearing on the request to operate a solar facility in the RC-2 zone, then immediately convened for Public Deliberation.
- Prior to the hearing the parties entered into discussions to address the Protestants concerns, and the Petitioner agreed to certain conditions to satisfy those concerns.
- The Board heard proffer from Petitioners' experts demonstrating the solar facility meets the statutory requirements of BCZR Sections 502.1 and 4F-102. This testimony was unrebutted.
- The Board heard testimony from Lynne Jones on behalf of the Protestants evidencing they have reached an agreement with the Petitioners regarding the solar facility.
- The Board noted that the requested solar facility will generate under 2 megawatts of electricity, meets setback requirements, no environmental features were identified, there will be no fire, noise or smoke generated, no glare will result, there will be no impact on schools, and no impact to sewer service. There also was testimony that the statutory requirement of 10 solar facilities per district has not been exceeded.
- The Board found that the request meets the special exception requirements contained in BCZR Section 502.1 and the requirements for a solar facility contained in Section 4F-102.
- Counsel for Petitioner will prepare and submit a proposed Order to the Board, after review and acceptance by Protestants.

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.

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 Zahner

From: Appeals Board
Sent: Wednesday, July 7, 2021 7:48 AM
To: 'Lynne Jones'
Subject: RE: Case 2019-057-X, Thurs at 1 pm

Good Morning,

We received your Rule 8 papers and will place them in the file.
Thank you.

Tammy A. Zahner, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
tzahner@baltimorecountymd.gov
(410) 887-3180
(410) 887-3182 Fax

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From: Lynne Jones <dryad101@hotmail.com>
Sent: Tuesday, July 6, 2021 5:50 PM
To: Appeals Board <appealsboard@baltimorecountymd.gov>
Cc: Lynne Jones <dryad101@hotmail.com>
Subject: Case 2019-057-X, Thurs at 1 pm

CAUTION: This message from dryad101@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Sunny or Tammy,

I'm attaching the Sparks Glencoe Community Planning Council, Inc.'s rule 8 documents for this solar case. At this time, since we'll hopefully be settling this case this week, I don't think I'll be testifying. I'm sending these to you just in case.

This is new territory for me in sending you papers, so I hope I'm doing it correctly. If not, please forgive me.

Sincerely,
Lynne Jones
Pres, SGCP

"The World is Changed by Your *Example*... Not by Your *Opinion*"

Tammy Zahner

From: Lynne Jones <dryad101@hotmail.com>
Sent: Tuesday, July 6, 2021 5:50 PM
To: Appeals Board
Cc: Lynne Jones
Subject: Case 2019-057-X, Thurs at 1 pm
Attachments: 20920 rule 8 Bd of Dir resoluthn 001.jpg; 20920 solar case rule 8 resolution 001.jpg; 20920 case rule 8 to wit 001.jpg

CAUTION: This message from dryad101@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

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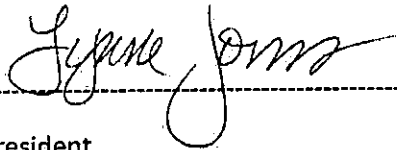
Sincerely,
Lynne Jones
Pres, SGCPG

"The World is Changed by Your *Example*... Not by Your *Opinion*"

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC

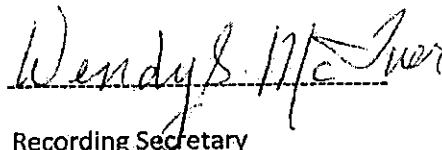
RESOLVED: That at the ANNUAL MEETING of The Sparks Glencoe Community Planning Council, Inc. held on April 15, 2020, it was decided that responsibility for review and action on all zoning and development matters for the period 2020-2021 be placed on the Board of Directors and members of the duly elected Zoning Committee.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

A handwritten signature in cursive script, appearing to read "Lynne Jones", written over a horizontal dashed line.

President

Lynne Jones

A handwritten signature in cursive script, appearing to read "Wendy S. McIver", written over a horizontal dashed line.

Recording Secretary

Wendy McIver

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 known as:

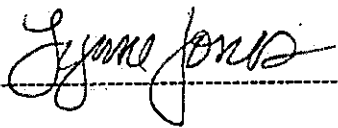
Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone, case # 2019-057-X.

The Sparks Glencoe Community Planning Council ("Sparks Glencoe" or "SGCPC") is a non-profit organization dedicated to preserving the rural character and natural resources of Northern Baltimore County, MD.

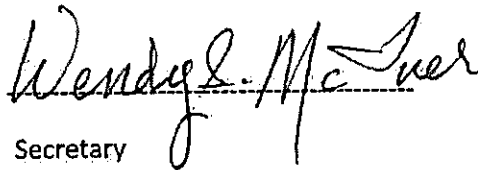
The Board of SGCPC has agreed to settle this as a theoretical matter to resolve this case by way of settlement but requires specificity regarding the number of acres utilized. The site plan alone is insufficient.

AS WITNESS OUR HANDS AND SEAL THIS 6TH DAY OF JULY 2021.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.



President



Secretary

AFFIDAVIT

STATE OF MARYLAND

BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon perjury that I, Lynne Jones, am currently a duly elected member of the Board of Directors of The Sparks Glencoe Community Planning Council, Inc.

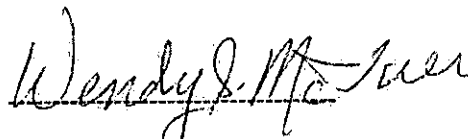
AS WITNESS OUR HANDS AND SEAL THIS 15th
DAY of April, 2020.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

A handwritten signature in cursive script, appearing to read 'Lynne Jones', written over a horizontal dashed line.

President

Lynne Jones

A handwritten signature in cursive script, appearing to read 'Wendy S. McIver', written over a horizontal dashed line.

Recording Secretary

Wendy McIver



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 14, 2021

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
19-057-X Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: JULY 8, 2021, AT 1:00 P.M.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least **48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
June 14, 2021
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Protestants/Appellants

: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Steve Lafferty, Director/Department of Planning
C. Peter Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney
Nancy C. West, Assistant County Attorney

Krysundra Cannington

From: Krysundra Cannington
Sent: Wednesday, May 19, 2021 10:07 AM
To: 'Kelly Benton'
Cc: Lawrence Schmidt; Zachary Wilkins; Tammy Zahner
Subject: RE: 20920 Old York Road

Good morning Kelly,

It is in my pile of things to schedule. I was off last week and that pile is a little larger than I'd like just now. I will get to it as soon as I can.

Sunny

From: Kelly Benton <kbenton@sgs-law.com>
Sent: Tuesday, May 18, 2021 12:55 PM
To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: RE: 20920 Old York Road

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Good afternoon,

I am just following up on the below emails. Have you been able to work this case back into your pile for scheduling?

Thank you,
Kelly



Kelly M. Benton | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 – fax
kbenton@sgs-law.com
<http://sgs-law.com>

From: Kelly Benton
Sent: Monday, April 26, 2021 3:49 PM
To: 'Krysundra Cannington' <kcannington@baltimorecountymd.gov>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Tammy Zahner

Krysundra Cannington

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Kelly



Kelly M. Benton | Paralegal
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
(410) 821-0070
(410) 821-0071 – fax
kbenton@sgs-law.com
<http://sgs-law.com>

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Subject: RE: 20920 Old York Road

Sunny,

We have reached an agreement with the community, through a series of email exchanges. We would like to get in front of the Board to put this Agreement on the record, which should not take more than a morning, if we can proffer, and hear a few witnesses to confirm their agreement, as they are not represented.

Please let me know if this is acceptable and when we can get on the Board's schedule.

Thank you,
Kelly

Krysundra Cannington

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From: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Sent: Thursday, April 22, 2021 1:28 PM
To: Kelly Benton <kbenton@sgs-law.com>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Tammy Zahner <tzahner@baltimorecountymd.gov>
Subject: RE: 20920 Old York Road

Kelly,

The last thing I have on that case is that the parties were negotiating settlement.

Please let me know if settlement negotiations have concluded and their outcome.

Thanks,

Sunny

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To: Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Lawrence Schmidt <lschmidt@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>
Subject: 20920 Old York Road

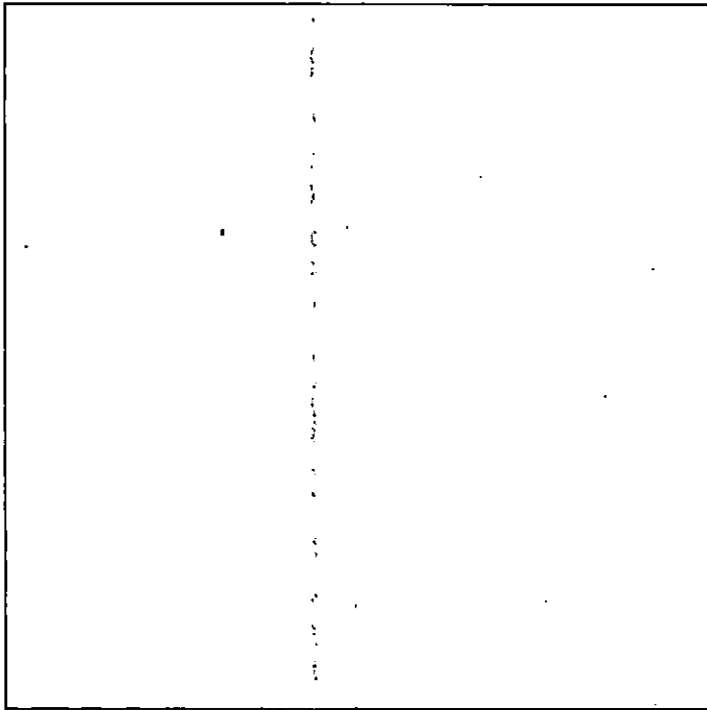
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Good afternoon Sunny and Tammy,

Do you have any update as to when this matter will be placed back on the Board schedule for a hearing?

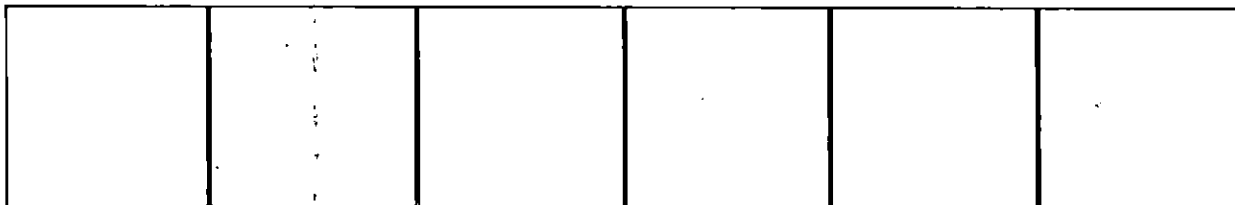
Let me know if you can't look it up by address. Our server is down right now so I can't access the Case Number, but I can send it once our IT people get it back up and running normally if you can't look it up by address.

Thank you,
Kelly



Register for your COVID-19 vaccine today.

CONNECT WITH BALTIMORE COUNTY



www.baltimorecountymd.gov

Krysundra Cannington

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Subject: 20920 Old York Road

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Good afternoon Sunny and Tammy,

Do you have any update as to when this matter will be placed back on the Board's schedule for a hearing?

Let me know if you can't look it up by address. Our server is down right now so I can't access the Case Number, but I can send it once our IT people get it back up and running normally if you can't look it up by address.

Thank you,
Kelly

Krysundra Cannington

From: Lynne Jones <dryad101@hotmail.com>
Sent: Tuesday, February 2, 2021 11:00 AM
To: Appeals Board; Lawrence Schmidt; 'Kelsey Crane'; 'Brian Maliszewski'; 'Christian Schlesinger'; Alyssa Moyers; Zachary Wilkins; Andrew Brown
Cc: Peoples Counsel; 'Kathie Pieper'; 'Lisa Arthur'
Subject: Re: Case #19-057-X, 20920 Old York Rd Solar Case

CAUTION: This message from dryad101@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Sunny,

We thank you and the Board for your understanding of our need for this postponement.

We'll keep you posted as to when we're ready to move forward with this case.

Yours,
Lynne

From: Appeals Board <appealsboard@baltimorecountymd.gov>
Sent: Tuesday, February 2, 2021 10:11 AM
To: Lynne Jones <dryad101@hotmail.com>; Appeals Board <appealsboard@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Kelsey Crane' <kcrane@forefrontpower.com>; 'Brian Maliszewski' <bmaliszewski@forefrontpower.com>; 'Christian Schlesinger' <cschlesinger@forefrontpower.com>; Alyssa Moyers <amoyers@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Andrew Brown <abrown@dsthaler.com>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; 'Kathie Pieper' <knotgarden57@comcast.net>; 'Lisa Arthur' <lisaarthur19500@hotmail.com>
Subject: RE: Case #19-057-X, 20920 Old York Rd Solar Case

Good morning,

Pursuant to your request, we will postpone the hearing on Thursday, February 4, 2021. We will not reset this matter at this time. Please advise when you complete settlement negotiations and we will set this matter at the earliest date at that time. We will follow up if we haven't hear from you within 60 days.

Thank you for your email.

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203

Krysundra Cannington

From: Appeals Board
Sent: Tuesday, February 2, 2021 10:11 AM
To: Lynne Jones; Appeals Board; Lawrence Schmidt; 'Kelsey Crane'; 'Brian Maliszewski'; 'Christian Schlesinger'; Alyssa Moyers; Zachary Wilkins; Andrew Brown
Cc: Peoples Counsel; 'Kathie Pieper'; 'Lisa Arthur'
Subject: RE: Case #19-057-X, 20920 Old York Rd Solar Case

Good morning,

Pursuant to your request, we will postpone the hearing on Thursday, February 4, 2021. We will not reset this matter at this time. Please advise when you complete settlement negotiations and we will set this matter at the earliest date at that time. We will follow up if we haven't hear from you within 60 days.

Thank you for your email.

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410)887-3182

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From: Lynne Jones <dryad101@hotmail.com>
Sent: Monday, February 1, 2021 5:03 PM
To: Appeals Board <appealsboard@baltimorecountymd.gov>; Lawrence Schmidt <lschmidt@sgs-law.com>; 'Kelsey Crane' <kcrane@forefrontpower.com>; 'Brian Maliszewski' <bmaliszewski@forefrontpower.com>; 'Christian Schlesinger' <cschlesinger@forefrontpower.com>; Alyssa Moyers <amoyers@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Andrew Brown <abrown@dsthaler.com>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; 'Kathie Pieper' <knotgarden57@comcast.net>; 'Lisa Arthur' <lisaarthur19500@hotmail.com>
Subject: Case #19-057-X, 20920 Old York Rd Solar Case

Krysundra Cannington

From: Lynne Jones <dryad101@hotmail.com>
Sent: Monday, February 1, 2021 5:03 PM
To: Appeals Board; Lawrence Schmidt; 'Kelsey Crane'; 'Brian Maliszewski'; 'Christian Schlesinger'; Alyssa Moyers; Zachary Wilkins; Andrew Brown
Cc: Peoples Counsel; 'Kathie Pieper'; 'Lisa Arthur'
Subject: Case #19-057-X, 20920 Old York Rd Solar Case

CAUTION: This message from dryad101@hotmail.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Dear Sunny Cannington,

Even though it's fairly short notice for the approaching Board of Appeals hearing (# 19-057-X) on Feb. 4, due to the weather this week and other unusual circumstances, we'd ask your permission to again postpone this hearing.

Mr. Schmidt's clients (Forefront Power) and our Sparks Glencoe Community Planning Council Board, including other individuals, are still in communications to hopefully settle this matter. Due to time constraints, we're finding it difficult to rush this process without properly coming to an agreement that would benefit all involved.

Hopefully, we should be able to reach a settlement by the end of this month at the latest. If, for any reason we don't, we'll keep you updated.

Please let me know if you have any questions.

Thank you for your consideration,

Lynne Jones,
Pres, SGPCPC
Lisa and Emma Arthur
Kathie Pieper Geppi

From: Appeals Board <appealsboard@baltimorecountymd.gov>
Sent: Friday, January 22, 2021 11:06 AM
To: Lawrence Schmidt <lschmidt@sgs-law.com>; 'Lynne Jones' <dryad101@hotmail.com>; 'Kelsey Crane' <kcrane@forefrontpower.com>; 'Brian Maliszewski' <bmaliszewski@forefrontpower.com>; 'Christian Schlesinger' <cschlesinger@forefrontpower.com>; Alyssa Moyers <amoyers@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Andrew Brown <abrown@dsthaler.com>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; 'Kathie Pieper' <knotgarden57@comcast.net>; 'Lisa

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Friday, January 22, 2021 11:08 AM
To: Appeals Board
Cc: Lynne Jones; Kelsey Crane; Brian Maliszewski; Christian Schlesinger; Alyssa Moyers; Zachary Wilkins; Andrew Brown; Peoples Counsel; Kathie Pieper; Lisa Arthur
Subject: Re: Case #19-057-X, Old York Rd Solar Case

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Thank you very much. If they are any issues or changes, I will let you know

Sent from my iPhone

On Jan 22, 2021, at 11:06 AM, Appeals Board <appealsboard@baltimorecountymd.gov> wrote:

Good morning Mr. Schmidt,

I spoke with the Board and your request is hereby granted. We will convene for hearing in this matter on February 4, 2021 at 10:00 a.m.

Thank you,

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410)887-3182

Confidentiality Statement

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Krysundra Cannington

From: Appeals Board
Sent: Friday, January 22, 2021 11:07 AM
To: Lawrence Schmidt; 'Lynne Jones'; 'Kelsey Crane'; 'Brian Maliszewski'; 'Christian Schlesinger'; Alyssa Moyers; Zachary Wilkins; Andrew Brown
Cc: Peoples Counsel; 'Kathie Pieper'; 'Lisa Arthur'
Subject: RE: Case #19-057-X, Old York Rd Solar Case

Good morning Mr. Schmidt,

I spoke with the Board and your request is hereby granted. We will convene for hearing in this matter on February 4, 2021 at 10:00 a.m.

Thank you,

Sunny

Krysundra Cannington
Administrator
Board of Appeals of Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
Phone: (410) 887-3180
Fax: (410) 887-3182

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From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Friday, January 22, 2021 9:27 AM
To: 'Lynne Jones' <dryad101@hotmail.com>; 'Kelsey Crane' <kcrane@forefrontpower.com>; 'Brian Maliszewski' <bmaliszewski@forefrontpower.com>; 'Christian Schlesinger' <cschlesinger@forefrontpower.com>; Alyssa Moyers <amoyers@sgs-law.com>; Zachary Wilkins <zwilkins@sgs-law.com>; Andrew Brown <abrown@dsthaler.com>; Krysundra Cannington <kcannington@baltimorecountymd.gov>
Cc: Peoples Counsel <peoplescounsel@baltimorecountymd.gov>; 'Kathie Pieper' <knotgarden57@comcast.net>; 'Lisa Arthur' <lisaarthur19500@hotmail.com>
Subject: RE: Case #19-057-X, Old York Rd Solar Case

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Friday, January 22, 2021 9:27 AM
To: 'Lynne Jones'; 'Kelsey Crane'; 'Brian Maliszewski'; 'Christian Schlesinger'; Alyssa Moyers; Zachary Wilkins; Andrew Brown; Krysundra Cannington
Cc: Peoples Counsel; 'Kathie Pieper'; 'Lisa Arthur'
Subject: RE: Case #19-057-X, Old York Rd Solar Case

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms. Cannington: As you are aware, I represent Forefront Power, LLC, the Petitioner in the above case. This matter is presently pending before the Board and is scheduled for hearing dates on January 27 and February 2 and 4. You might also recall that the Protestants were previously represented by counsel (Mr. Mowell) however, he has stricken his appearance and they are now not represented. Ms. Lynne Jones, one of the Protestants is serving as spokesperson for the group. In addition to Ms. Jones, the other appellants identified in the Notice of Appeal are Lisa Arthur, Emma Arthur (who apparently resides with Lisa Arthur), The Greater Sparks Glencoe Community Planning Council, Inc. (Ms. Jones is an officer in that organization), and Kathleen Pieper. All of the appellants (except Emma Arthur, who I trust can be reached by Lisa Arthur) are copied on this email.

I am pleased to advise you that as a result of conversations between myself and Ms. Jones, we believe that we have reached a tentative settlement of this matter. The size of the proposed solar facility has been reduced from what was approved by the ALJ and there are other details of agreement.

Because the facility has been modified, we will still be required to have an evidentiary hearing before the Board to present the new plan and otherwise address the special exception requirements set forth in the law. But the hearing should consume one-half day, at the most.

In that we are still finalizing certain details of the settlement and exchanging documents, I would request that the hearings on January 27 and February 2 be cancelled and that we convene on February 4. Hopefully, that will provide the parties with sufficient time to finalize the details so that the hearing can be handled expeditiously. I have spoken to Ms. Jones and she concurs with this approach.

Thank you for your anticipated cooperation and please let me know if you have any questions and our request can be accommodated.

Larry Schmidt

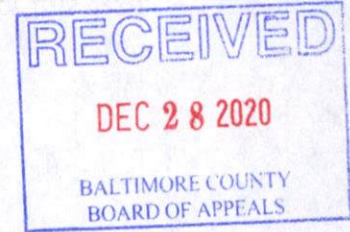
Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

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

December 22, 2020



Ms. Krysundra Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue
Suite 203
Towson, Maryland 21204

Re: Petition for Special Exception
Case No: 2019-0057-X
Property: 20920 Old York Road

Dear Ms. Cannington:

I have enclosed, for filing, a Notice of Withdrawal of Appearance for this case.
Thank you for your cooperation in this regard.

Very truly yours,

A handwritten signature in blue ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

cc: Lawrence E. Schmidt, Esquire

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road)
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

BEFORE THE
BOARD OF APPEALS
OF
BALTIMORE COUNTY

Petitioners

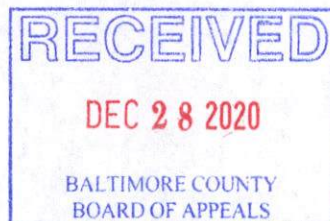
7th Election District
3rd Council District

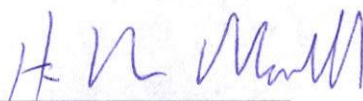
CASE NO: 2019-0057-X

* * * * *
NOTICE OF WITHDRAWAL OF APPEARANCE

Please strike the appearance of H. Barnes Mowell as counsel on behalf of the Protestants in this case; Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

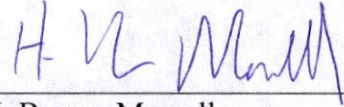
Undersigned counsel certifies that he mailed to each of the above Protestants the attached letter, at least five days before the filing of this Notice, advising them of his intention to withdraw from this case, and advising each of them to have another attorney enter their appearance, or to notify the Board of Appeals of their intention to proceed and appear before the Board, in proper person.




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 22nd day of December 2020 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, 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

December 15, 2020

Sparks Glencoe Community Planning Council, Inc.
Box 937
Sparks, Maryland 21152

Lisa Arthur
Emma Arthur
19500 Burke Road
White Hall, Maryland 21161

Lynne Jones
815 Stablers Church Road
Parkton, Maryland 21120

Kathleen Pieper
4310 Beckleysville Road
Hampstead, 21074

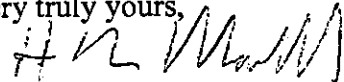
Re: Petition for Special Exception for 20920 Old York Road

Ladies and Gentlemen:

In February 2019, I filed a Notice of Appeal on your behalf regarding the approval of the Petition for Special Exception for a solar facility at 20920 Old York Road. The case has been set for a three-day hearing before the Board of Appeals, beginning January 27, 2021, as shown on the enclosed Notice of Reassignment. As discussed in our recent e-mails, we have jointly agreed that I will not be involved further in this case. I will be filing a Notice with the Board of Appeals withdrawing my appearance. Each of you may have another attorney enter their appearance for you in the case. If you intend to proceed and appear at the hearing in proper person, you should send a Notice to the Board of Appeals to advise them of your intentions.

Thank you for your cooperation in this regard.

Very truly yours,



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

November 23, 2020

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
19-057-X Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: **JANUARY 27, 2021, AT 10:00 A.M. – Day 1**
FEBRUARY 2, 2021, AT 10:00 A.M. – Day 2
AND **FEBRUARY 4, 2021, AT 10:00 A.M. – Day 3**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of **exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
November 23, 2020
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c:	Counsel for Petitioner/Legal Owner	: Lawrence E. Schmidt, Esquire
	Petitioner/Legal Owner	: Dennis Danielczyk, Jr./The Farm, LLC
	Lessee	: Forefront Power, LLC/Brian Maliszewski
	Counsel for Protestants/Appellants	: H. Barnes Mowell, Esquire
	Protestants/Appellants	: Sparks Glencoe Community Planning Council, Inc., Lisa Arthur, Emma Arthur, Lynne Jones, Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Peter Gutwald, Director/Department of Planning
James R. Benjamin, Jr., County Attorney, Office of Law
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**

* Admitted in MD, PA, FL
** Admitted in MD, NC

ROBERT B. HAMILTON
NICOLE LAMBDIN
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
MARY G. LOKER
STEPHEN J. NOLAN

March 16, 2020



Sent via First Class Mail

Krysundra L. Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

**Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - 20920 Old York Road
Case No. 19-057-X**

Dear Ms. Cannington:

This is in response to your letter of February 26, 2020 regarding the above matter. As you know, proceedings before the Board were previously indefinitely postponed at the request of the Petitioner. The postponement was requested because of a contemplated revision to the layout of the proposed solar facility.

Please be advised that my clients, The Farm (property owner) and Forefront Power LLC (applicant) are now desirous of moving forward with the project and hereby request that the continuance previously granted be lifted and that this matter be scheduled for hearing before the Board. I am pleased to coordinate dates with you and Mr. Mowell (attorney of the Protestants/ Appellants) if appropriate.

For your reference, I am enclosing a copy of the current site plan for this project. In order to address certain of the objections of the Protestants and for other reasons related to the capacity and function of the proposed facility, please note that the project has been "downsized" from its previous footprint. In lieu of four separate rows of solar panels, the proposal now indicates only two rows. Additionally, in order to meet Fire Department access requirements, an internal access road for emergency equipment has been relocated so that all panels are within a short distance thereof. This revised plan will be submitted to the Board at its de novo hearing and Petitioners will request that it be approved in connection with the Petition for Special Exception.

Krysundra L. Cannington

March 16, 2020

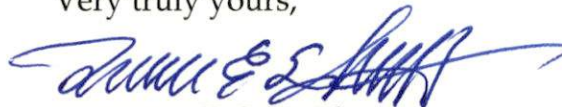
Page 2

Notwithstanding the modest downsizing of the proposal, the project is largely the same as originally submitted and approved by the ALJ. The area and location of the special exception within the property is the same. However, the "footprint" of the actual panel field is reduced in order to provide greater setbacks and buffers to adjacent properties.

As noted above, the attached site plan will be offered to the Board at its hearing as an evidentiary exhibit and Petitioners' request for approval will be of that plan. In that proceedings before the Board are de novo, I would request that the Board retain jurisdiction of this matter and not remand the matter to the ALJ. In addition to the de novo nature of this appeal, please note the at the relief requested is the same (i.e. a petition for special exception, there are no variances requested), the property and parties remain the same, the proposal is essentially the same as approved by the ALJ and that the changes reduce (and do not enlarge) the area of the facility and impacts of the project.

I appreciate and thank you for your patience with this matter. I hope that the Protestants will withdraw their opposition to this project in view of the efforts made by my clients to reduce its impact. However, I am certain that Mr. Mowell will advise of his position and I have copied him with this letter.

Very truly yours,

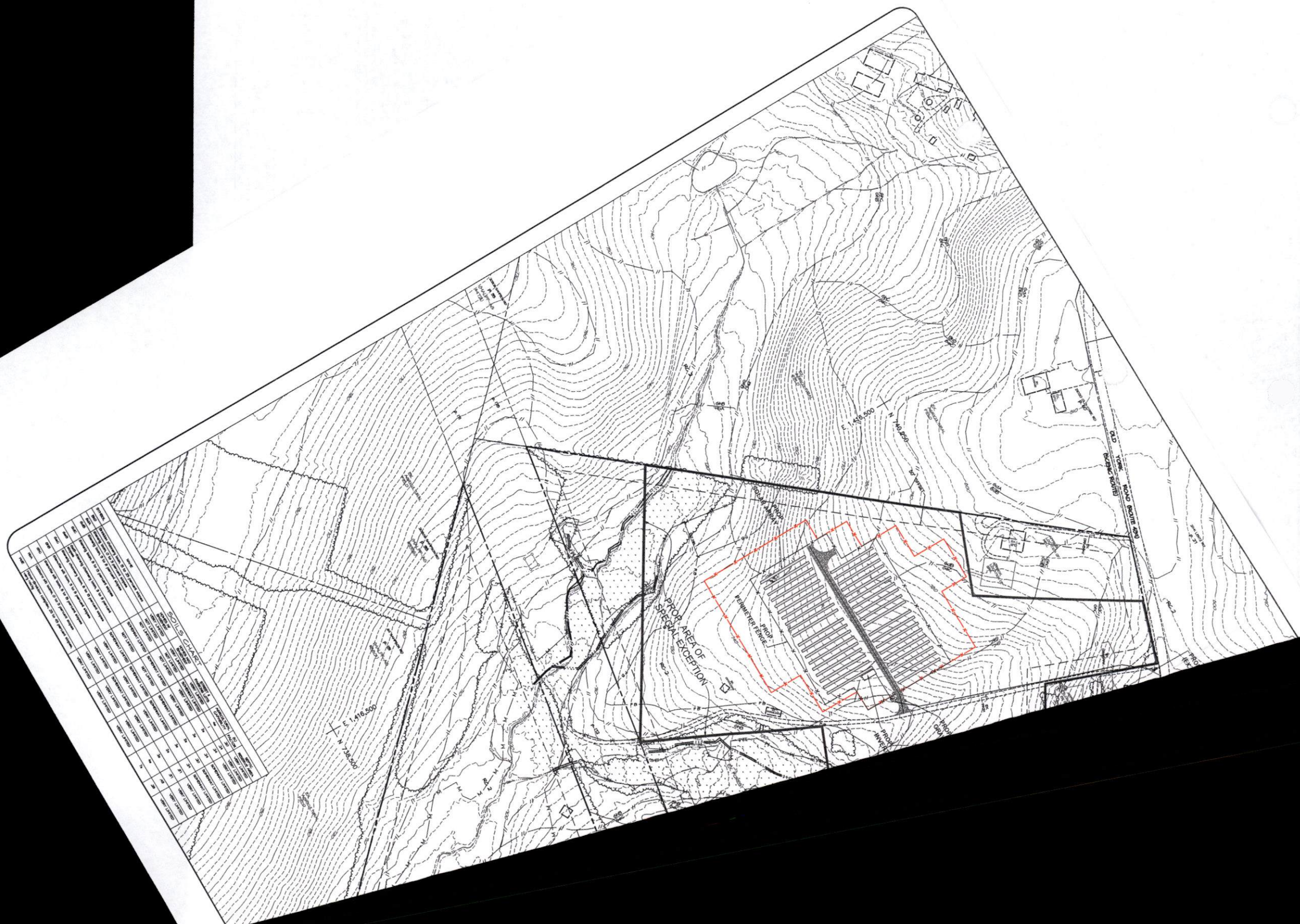


Lawrence E. Schmidt

LES/am

Enclosure

cc: H. Barnes Mowell, Esquire
Andrew Brown, D.S. Thaler
Forefront Power, LLC





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

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

April 30, 2019

NOTICE OF POSTPONEMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 23, 2019 and has been postponed by request of counsel. This matter will be rescheduled to later dates.

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

Notice of Postponement
In the matter of: The Farm, LLC
Case number: 19-057-X
April 30, 2019
Page 2

c:	Counsel for Petitioner/Legal Owner	: Lawrence E. Schmidt, Esquire
	Petitioner/Legal Owner	: Dennis Danielczyk, Jr./The Farm, LLC
	Lessee	: Forefront Power, LLC/Brian Maliszewski
	Counsel for Protestants/Appellants	: H. Barnes Mowell, Esquire
	Protestants/Appellants	: Sparks Glencoe Community Planning Council, Inc., Lisa Arthur, Emma Arthur, Lynne Jones, Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Pete Gutwald, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, April 29, 2019 3:04 PM
To: 'barney Mowell'; Appeals Board
Subject: RE: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Barney: Thank you for your courtesy.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: barney Mowell [<mailto:barneymowell@hotmail.com>]
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: barney Mowell <barneymowell@hotmail.com>
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt, Esquire
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: Appeals Board
Sent: Monday, April 29, 2019 12:05 PM
To: 'barneymowell@hotmail.com'
Cc: Lawrence Schmidt, Esquire
Subject: The Farm, LLC 19-057-X
Attachments: Petitioner's request for postponement.pdf

Good afternoon Mr. Mowell,

Attached please find Mr. Schmidt's request for postponement which was received in our office on Friday.

Please advise if you have any objection to this request for postponement.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH

*Admitted in MD, FL, PA

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS

of counsel:

EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

April 26, 2019

Sent via Hand Delivery

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Legal Owner: The Farm, LLC
Lessee: Forefront Power, LLC
Property: 20920 Old York Road
Case No. 2019-057-X



Dear Ms. Cannington,

This is in reference to the above matter currently scheduled for hearing before the Board on May 9, 2019 and May 23, 2019. This matter is for the consideration of a petition for special exception to permit a proposed solar facility. The petition was filed by my client, Forefront Power, LLC, as lessee. The property owner, The Farm, LLC, is designated as the co-petitioner. Forefront Power, LLC is an energy company and will construct and operate the proposed facility.

My client has recently advised that they are contemplating the transfer/sale of their rights under the current lease to a different entity. This entity would be another entity that is experienced in the development and operation of solar facilities. Under the circumstances, I am hereby requesting a postponement of the May 9th and May 23rd hearing dates and request that the matter be reset after August 1, 2019. Although the anticipated project would largely remain the same, the parties involved would like to have the transaction finalized before a hearing. I also think it appropriate that the ultimate developer and operator of the facility participate at the Board's hearings so as to explain the operational details. Insofar as my calendar for a re-scheduling, I am available August except for the following dates: August 2, 14, 15 and 16.

Ms. Krysundra L. Cannington, Administrator

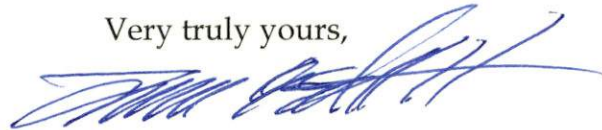
April 26, 2019

Page 2

This postponement will not be prejudicial to any parties. The petition for special exception was granted below and thus the delay occasioned by this request does not prejudice the opponents to the petition. Actually, it is arguably beneficial to them as the project, if approved, will not be constructed until later than initially anticipated. I have copied their counsel with this correspondence. I appreciate the Board's attention to this request and please do not hesitate to contact me should you have any questions.

Thank you for your courtesy.

Very truly yours,



Lawrence E. Schmidt

LES/am

cc: H. Barnes Mowell, Esquire



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

March 19, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 16, 2019. Day 2 of this matter has been changed due to a scheduling conflict. This matter is now

ASSIGNED FOR: **MAY 9, 2019, AT 10:00 A.M. – Day 1**
MAY 23, 2019, AT 10:00 A.M. – Day 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.
- 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.

Amended Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 19, 2019
Page 2

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra “Sunny” Cannington
Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

March 5, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-057-X

The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR:

MAY 9, 2019, AT 10:00 A.M. – Day 1
MAY 16, 2019, AT 10:00 A.M. – Day 2

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

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- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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- 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.
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Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 5, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

/

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 6, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204



RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Exception - Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 5, 2019. 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:slh

c: Baltimore County Board of Appeals
People's Counsel
H. Barnes Mowell, Esq., 16925 York Road, Monkton, Maryland 21111
James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

APPEAL

Petition for Special Exception
(20920 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: The Farm, LLC
Lessee: Forefront Power, LLC
Case No. 2019-0057-X

Petition for Special Exception (August 20, 2018)

Zoning Description of Property (April 16, 2018)

Certificate of Posting – 1st Posting October 27, 2018 (Linda O'Keefe)
2nd Posting November 17, 2018 (Linda O'Keefe)

Newspaper Advertisement – October 31, 2018 – The Daily Record

Notice of Zoning Hearing – September 26, 2018

People's Counsel Entry of Appearance – August 29, 2018

Zoning Advisory Committee Comments

Petitioner's Sign-in Sheets – 1 Sheet

Citizen's Sign-in Sheets- 1 Sheet

Petitioner(s) Exhibits –

1. Plan
2. Aerial w/landscaping
3. 3“A”-3“O” Photos
4. Aerial plan w/site boundary
5. Zoning Description

Protestant(s) Exhibits –

1. Aerial photo/map w/environmental features
2. Photos of Animals on Fences
3. 11-20-2018 Sparks-Glencoe letter

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – November 27, 2018)

Motion for Reconsideration- December 20, 2018 by H. Barnes Mowell

Petitioner's Response to Motion For Reconsideration- January 4, 2019 by Lawrence E. Schmidt

Administrative Law Judge Order and Letter on Motion For Reconsideration (DENIED-January 8, 2019)

Appeal Notice, Letter & Receipt received from H. Barnes Mowell, Esq. – February 5, 2019



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 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 filing fee.
Should you have any questions, please contact me.

Very truly yours,

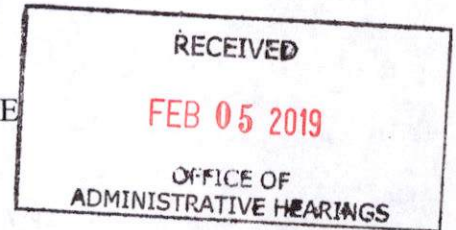
H. Barnes Mowell

cc: Baltimore County Board of Appeals
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road) *
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners *

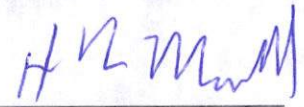
BEFORE THE *
OFFICE OF *
ADMINISTRATIVE HEARINGS *
FOR *
BALTIMORE COUNTY *
CASE NO: 2019-0057-X *



* * * * *
NOTICE OF APPEAL

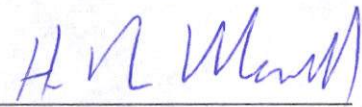
Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 ^{5th} day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **174813**

Date: **2/5/19**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
2/07/2019 2/05/2019 13:20:59 1

REL WSO1 WALKIN LJR

>> RECEIPT # 832443 2/05/2019 OFLN

Dept 5 528 ZONING VERIFICATION

CR NO. 174813

Recpt Tot \$ 400.00

400.00 CK .00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				400

Total: **400**

Rec From: **H. Barnes Moulell**

For: **Office of Administrative Hearings (CD OR APPEAL)**

CASE NO. **2019-0051-X**

ADDRESS OR PROJECT: **20920 Old York Rd**

HEARING DATE(S): **11-20-18**

CHECK # **1500 E 6297**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

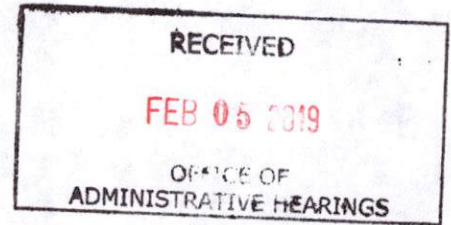
GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**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
February 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 filing fee.
Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

A handwritten note on a piece of paper, written in black ink. The text reads: "Hi Sunny & Tammy - I just filed this appeal & am dropping this off to you. Lynne Jones".

Hi Sunny & Tammy -
I just filed this.
appeal & am dropping
this off to you.
Lynne Jones



cc: Baltimore County Board of Appeals
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road)
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners

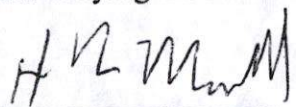
BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR
BALTIMORE COUNTY
CASE NO: 2019-0057-X



* * * * *
NOTICE OF APPEAL

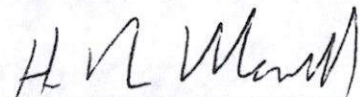
Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 5th day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0057-X

* * * * *

ORDER ON PROTESTANTS'
MOTION FOR RECONSIDERATION

Protestants have filed a motion for reconsideration wherein they raise two (2) arguments:

(1) Lessee Petitioner's charter was forfeited on the date of the zoning hearing, and as such the petition should be dismissed; and (2) the size of the special exception area is too large. These arguments are addressed below.

Entity Status

The Lessee in the above-case, which would operate the solar facility, is Forefront Power, LLC. Based on the exhibits attached to Protestants' motion, its entity status was forfeited on November 19, 2018, and the hearing in this case was the next day, November 20, 2018.

Petitioner initially contends (but does not provide any case or statutory authority for the proposition) the forfeiture statute is only applicable in a judicial proceeding. In similar settings (i.e., standing, doctrine of res judicata) Maryland cases have indicated that such rules apply to both judicial and quasi-judicial proceedings. As such, I do not believe this argument has merit.

But Petitioners also note that the legal owner of the subject property (The Farm, LLC) was also a petitioner in the zoning case, and that entity apparently was and is in good standing. As such, I agree with Petitioners that whether or not the Lessee's charter was forfeited is immaterial

ORDER RECEIVED FOR FILING

Date 1-8-19

By 192

in the circumstances of this case; two (2) petitioners signed the zoning petitions even though the legal owner could have filed and prosecuted the case on its own.

Size of Special Exception Area

Protestants contend the size of the special exception in this case is excessive and in support of that argument they submit a chart (attached to the Motion as Exhibit 2) comparing the sizes of special exception areas in recent solar facility cases. As Petitioners note, this evidence was not presented at the hearing and cannot be considered in connection with the motion.

But more to the point, the size of the special exception area was considered at the hearing and Petitioners summarize the testimony of their witness (Kelsey Crane) that addressed this issue. As such, I do not believe the motion presents any "new or different factual situation" which would justify reaching a different conclusion.

WHEREFORE, IT IS ORDERED this 8th day of **January, 2019**, by this Administrative Law Judge, that the Protestants' Motion for Reconsideration, be and is hereby DENIED.

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/dlw

ORDER RECEIVED FOR FILING

Date 1-8-19

By kw



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 8, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

H. Barnes Mowell, Esq.
H. Barnes Mowell, P.A.
16925 York Road
Monkton, MD 21111

RE: **MOTION FOR RECONSIDERATION**
Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Counsel:

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.

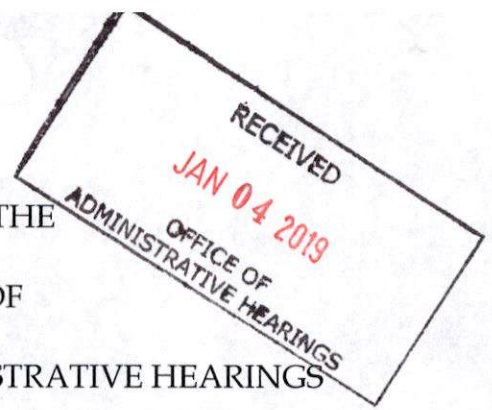
Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120



IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR
* BALTIMORE COUNTY
* Case No.: 2019-0057-X

* * * * *

Petitioner's Response to Motion For Reconsideration

The Farm LLC (Legal Property Owner) and Forefront Power, LLC (Lessee), hereinafter referred to collectively as the "Petitioners", through their attorneys, Lawrence E. Schmidt, and Smith, Gildea and Schmidt LLC, hereby files this response to the Motion for Reconsideration of the Administrative Law Judge's ("ALJ") Opinion and Order dated November 27, 2018 filed herein by Sparks Glencoe Community Planning Council, Inc., Kathleen Pieper, and Lynne Jones, hereinafter the "Protestants", and state as follows:

Protestants' Motion for Reconsideration sets forth two issues: (1) a claim that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and thus the ALJ's Order should be stricken and/or the matter reheard; and, (2) the size of the special exception area is larger than is required, and should be reduced. For the following reasons, Protestants' Motion for Reconsideration is legally insufficient and should be denied.

**I. Lessee's Purported Forfeiture Of Its Corporate Charter
Does Not Require Dismissal Of Owner's Petition For Special Exception
and/or the striking of the ALJ's Opinion and Order**

Respondents' Motion for Reconsideration asserts that the Lessee (identified in the petition as Forefront Power, LLC) is no longer in good standing with the Maryland State Department of Assessments and Taxation ("SDAT") and this failure justifies striking the ALJ's Opinion and Order and/or remanding of the petition for further proceedings. This argument is manifestly improper.

The zoning petition form requires that the property owner be identified and that a signature from the property owner be secured. In fact, the petition contains an oath and affirmation clause whereby the owner must expressly declare that it is the "legal owner(s) of the property which is the subject of this/these Petition(s)." The property owner in this case is identified as "The Farm LLC" and that entity is a valid Maryland LLC and in good standing. "The Farm LLC" is the title owner of the property and is rightfully and appropriately designated/identified in the petition. Therefore, there is a proper petitioner to prosecute and maintain the Petition for Special Exception at issue.

Zoning regulates the use of land, and does not relate to the status or identity of a lessee or contract purchaser. It is axiomatic that zoning "runs with the land" and it is thus the identity and consent of the property owner to the filing of the petition that is paramount and necessary. As a practical matter, it is customary to predicate the application on a particular use, rather than for a particular lessee or contract purchaser. The Protestants objections are mindful to the situation where relief is sought by a property owner who proposes leasing its property for a particular use (e.g. a fast food

restaurant, i.e. McDonald's) and then terminates that lease and enters into a new lease for an identical use through a different lessee (i.e. Burger King). Such a scenario would not invalidate a petition brought by the owner. For so long as the proposal is the same, the relief sought does not change and the owner moves the petition; then the identity of the lessee is meaningless. Thus, whether Forefront Power, LLC or some other entity leases the property, the issue is the same.

Moreover, the identified Lessee (Forefront Power, LLC) was a Maryland LCC in good standing at the time the Petition for Special Exception was filed. The Lessee is a subsidiary of a California entity (Forefront Power) that conducts business related to energy use across the United States. It established Forefront Power LLC as a Maryland entity in order to begin operations in this state. It intends to create an entity for each project in Maryland (there are numerous solar projects proposed by Forefront in Baltimore County and other Maryland jurisdictions). During and subsequent to proceedings before this Court, Forefront Power, LLC's charter was or about to be forfeited with SDAT. While a business entity is required to maintain its good standing, Petitioners submit a failure in that regard was not deliberate and appropriate paperwork to correct this has been filed with SDAT. In fact, the SDAT website (copy attached) indicates that Forefront Power, LLC filed a personal property tax return for the calendar year 2018 on December 17, 2018 and changed its resident agent on December 4, 2018. These filings were accepted by SDAT and evidence that the entity is not abandoned. Forefront Power, LLC's charter will be reinstated in the near future or a new entity specific to this project will be formally created.

Finally, the case cited in support of the Motion is inapposite. That case cited deals with a matter pending in a court of law, not in an administrative forum. The case is specific to an entity's authority to prosecute a claim in a court of law, not a quasi judicial administrative setting. As importantly, and as indicated hereinabove, there is a valid entity identified in the Petition that is prosecuting this case. That entity, The Farm LLC, is in good standing and is a valid business entity.

II. The Size Of The Special Exception Area Was Properly Considered At The ALJ Hearing

Respondents' Motion for Reconsideration reiterates concerns regarding the size of the special exception area. However, the topic of the special exception area was raised by the community at the hearing; thus this issue has already been considered. Even so, Respondents claim the ALJ erred when he in fact considered and evaluated the size of the special exception area.

As articulated by this Court before, a motion for reconsideration is properly granted only when "some new or different factual situation exists that justifies a different conclusion." *Calvert County v. Howlin Realty, Inc.*, 364 Md. 301, 325 (2001). In this case, the Respondents have not identified "some new or different factual situation." The Protestants were present at the hearing and were given the full opportunity to participate thereat and offer whatever testimony, evidence and argument they desired. Protestants' testimony regarding the size of the special exception has already been considered within the body of evidence offered at the initial hearing. Now, having

failed to convince this Court at the hearing, Protestants asks for yet one more chance, but have provided no viable reason why the Court should do so.

Notwithstanding above, Kelsey Crane, Assistant Project Manager for Forefront Power, LLC, testified to the proposed solar facility. Pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") § 102.A.1., the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts ... of electricity." B.C.Z.R. provides no limitation as to the acreage amount necessary for the megawatt output. According to Ms. Crane's testimony, there are numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments. Petitioners must do so in keeping with the above-quoted provision.

Protestants attempt to breathe life into its position by referencing the size of acres of other properties proposed for solar facilities in unrelated special exception cases. By doing so, Protestants inadvertently support Ms. Crane's testimony and the concept that every solar facility special exception area is unique to the property and developer.

Under BCZR § 502.1(A), a special exception use is prohibited if it is "detrimental to the health, safety or general welfare of the locality involved." *Schultz v. Pritts*, 291 Md. 1 (1981). In *Schultz*, the Court of Appeals held 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 [ALJ] that the

proposed use would be conducted without real detriment to the neighborhood ... he has met his burden.” 291 Md. 1, 11, 432 A.2d 1319, 1325 (1981).

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*, 152 A.3d 765 (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. As testified to at the hearing, the proposed solar facility use satisfied the standards set forth in B.C.Z.R. § 502.1 and does not have detrimental effects above and beyond the inherent ones ordinarily associated with such a use. Thus, as a matter of law, Petitioner has established a prima facie case of entitlement to the special exception.

Additionally, in every Baltimore County zoning case, the petition for relief is circulated to several county agencies seeking comment and input concerning the propriety of the zoning request. By memorandum dated 11/16/18, none of the reviewing agencies recommended decreasing the special exception area. Had there been a concern with the special exception area, such a concern would have been noted.

As apparent from Ms. Crane’s testimony, there are a variety of factors which inform the design and layout of a solar facility. Protestants have offered no compelling

reason why it should receive another bite at the apple and, for that reason, its Motion for Reconsideration should be denied.

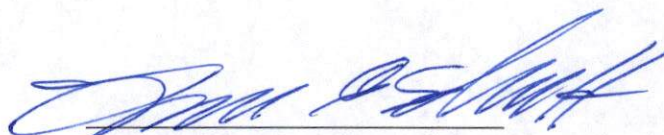
Finally, and as importantly, the new “evidence” offered has no relevance to the facts of this case. This evidence is a recitation of claims made by Protestants in other cases. That evidence is not proper evidence in the record of the instant case. It simply has no relevance to the instant proceedings and should not be relied upon as a basis for any reconsideration.

Conclusion

In summary, a Motion for Reconsideration serves a limited function in quasi-judicial hearings. While the Motion certainly elaborates upon the arguments Protestants made at the hearing, it does not present any new or additional facts. In *Calvert County v. Howlin Realty, Inc.*, the court held that an agency (like the OAH) “may reconsider an action previously taken and come to a different conclusion upon a showing that ... some new or different factual situation exists that justifies the different conclusion.” In this case, the Petitioners have not identified “some new or different factual situation.” Zoning is not a plebiscite, and cases cannot be decided based on the number of people favoring versus opposing a project. *Neuman v. City of Baltimore*, 23 Md. App. 13, 16 (1974) (“[z]oning should never be allowed or disallowed on the basis of a plebiscite of the neighborhood”). Special exceptions are in fact presumptively proper uses. The Owner in this case presented testimony from qualified experts that satisfied the elements required for a special exception for a solar facility. Because there are

insufficient reasons for the ALJ to reverse his decision, Protestants' Motion for Reconsideration should be denied

Respectfully submitted,

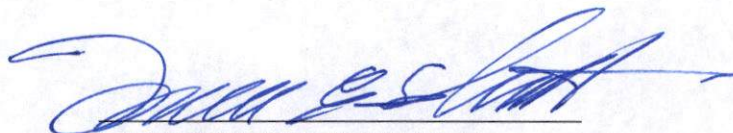


LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410)821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of **January, 2019**, a copy of the foregoing Response to Protestants' Motion for Reconsideration was mailed first-class, postage prepaid to:

H. Barnes Mowell
16925 York Road
Monkton, MD 21111
Protestants' Counsel



LAWRENCE E. SCHMIDT

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FOREFRONT POWER, LLC: Z17731399

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DEPT. ACTION - FORFEITURE 💬	11/19/2018 10:52:00 PM			
👁 RESIDENT AGENT CHANGE OF ADDRESS	6/19/2017 8:30:00 AM			3
👁 REGISTRATION	1/17/2017 4:03:00 PM			3

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RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

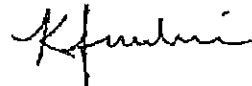
to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed



Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

CORPORA' CHARTER APPROV. SHEET

** KEEP WITH DOCUMENT

DOCUMENT CODE 80 BUSINESS CODE _____

Z17731399

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging/Converting _____

Surviving/Resulting _____



1000362011684893

ID # Z17731399 ACK # 1000362011684893
PAGES: 0002
FOREFRONT POWER, LLC

12/04/2018 AT 03:54 P WO # 0004913385

New Name _____

FEES REMITTED

Base Fee: _____
Org. & Cap. Fee: _____
Expedite Fee: _____
Penalty: _____
State Recordation Tax: _____
State Transfer Tax: _____
Certified Copies _____
Copy Fee: _____
Certificates _____
Certificate of Status Fee: _____
Personal Property Filings: _____
NP Fund: _____
Other: _____

25
50
75

TOTAL FEES: _____

Credit Card _____ Check ☒ Cash _____

_____ Documents on _____ Checks

Approved By: 15

Keyed By: _____

COMMENT(S):

Change of Name
Change of Principal Office
☒ Change of Resident Agent
☒ Change of Resident Agent Address
Resignation of Resident Agent
Designation of Resident Agent
and Resident Agent's Address
Change of Business Code

Adoption of Assumed Name

Other Change(s)

Code _____

Attention: _____

CSC-LAWYERS INCORPORATING SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

CUST ID: 0003696808
WORK ORDER: 0004913385
DATE: 12-06-2018 12:33 PM
AMT. PAID: \$925.00

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FOREFRONT POWER, LLC: Z17731399

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Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2019		No		
2018	12/17/2018	No		
2017		No		
2016		No		
2015		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2019	0	0	
2018	0	0	
2017	0	0	
2016	0	0	

Asmt. Year	County B	Town Base	ate Certified
2015	0	0	

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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

December 20, 2018



Office of Administrative Hearings
105 W. Chesapeake Avenue
Suite 103
Towson, Maryland 21204

via Hand-Delivery

Re: Petition for Special Exception
Case No: 2019-0057-X
Property: 20920 Old York Road

Ladies and Gentlemen:

I have enclosed, for filing, a Motion for Reconsideration of the Opinion and Order in this case dated November 27, 2018.

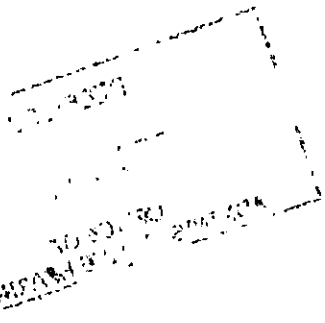
Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

cc: Lawrence E. Schmidt, Esquire



IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR
<i>Lessee</i>		
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO: 2019-0057-X

* * * * *

MOTION FOR RECONSIDERATION

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074, Protestants, who submit the following Motion for Reconsideration of the Opinion and Order in this case, pursuant to Rule 4K of the Zoning Commissioner's Rules of Procedure. The Protestants raise two issues for reconsideration: 1). It appears that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and it should not have been allowed to prosecute its claim, and, 2). The size of the special exception area is larger than is required, and should be reduced.

Forfeited Entity

The solar company that filed for a Special Exception in this case is Forefront Power, LLC. According to the Maryland Department of Assessments and Taxation (SDAT) website, and as shown on the attached Exhibit 1, Forefront Power LLC ("Forefront") is a limited liability company formed in Delaware in December 2016. In January 2017, Forefront registered with the SDAT to do business in the state of Maryland, and listed the nature of its business as "Assume and enter into contracts associated with solar power projects." Registration in Maryland

triggered the requirement to file property returns each year with the Maryland SDAT. Forefront failed to file its property return for 2018, and, as a result, the entity was forfeited on November 19, 2018, according to the SDAT website. See attached Exhibit 1.

The hearing before the Administrative Law Judge for this case was held on November 20, 2018. At that hearing, Forefront put on evidence, called witnesses, and prosecuted a case in furtherance of its request to install a solar facility at 20920 Old York Road. Section 4A-911(d) of the Corporations and Associations Article of the Annotated Code of Maryland, however, precludes prosecuting such a claim. Under that statute, an LLC which fails to file its annual report is forfeited, and its “right to do business in Maryland and the right to the use of the name for each limited liability company is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.”

The meaning of that language was discussed in Price v. Upper Chesapeake Health Ventures, 192 Md. App. 695 (2010). In Price, a Maryland LLC filed suit at a time when it was a forfeited entity, for failure to file a personal property tax return for 2005. For that reason, the case was dismissed in the Circuit Court, and the LLC appealed. The Court of Special Appeals began by noting the language in a related statute: “C&A 4A-920 provides that a contract executed or an act performed by the LLC after the C&A 4A-911 forfeiture is valid, and the LLC may defend an action in court.” Price at 707. From that, the Court reasoned that a forfeited LLC cannot file or maintain an action:

“Nevertheless, with respect to court proceedings, the statute expressly provides that a forfeited entity may only *defend* an action in court. The negative implication of such language, and the sweep of the “doing business” and name “using” prohibition is that the company may not *file or maintain* a lawsuit after its rights have been forfeited.” Price at 707-708.

The Court held that “an LLC whose rights have been forfeited for tax failures still exists as an entity, but may only defend an action in court, not prosecute one.” Price at 709. The Court

of Special Appeals affirmed the Circuit Court's dismissal of the case. For the same reason, Forefront should not have been permitted to prosecute its case before the Administrative Law Judge. Forefront's lack of standing to prosecute a case was fatal to the jurisdiction of the administrative proceeding, and the case should have been dismissed at the hearing on November 20th. See Cassidy v. County Board of Appeals of Baltimore County, 218 Md. 418, 422 (1958). What has been done to date is void for lack of jurisdiction, and that issue may be raised if the case moves forward to the Board of Appeals and Circuit Court. The only remedy, at this point, is to remand the case for a new hearing before the Administrative Law Judge. As of today's date, Forefront Power LLC remains a forfeited entity, and its right to do business in Maryland, and the right to the use of that name, is still forfeited. See attached Exhibit 1.

Size of Special Exception Area

Section 4F-102(B) of the Solar Facilities Law 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."

Kathleen Pieper, a Baltimore County resident, has examined this issue, and has testified in other solar cases before the Board of Appeals. She has charted the special exception acreage required to produce one megawatt of electricity for twelve proposed projects in Baltimore County. See attached Exhibit 2. She found that the project at 10790 Raphel Road, for example, proposed to produce one megawatt on four acres. At the other end of the chart, the 632 Freeland Road project needs 9.5 acres to produce one megawatt. In the instant case, a remarkable 19.9 acres are designated as the special exception area, to produce only .825 megawatts of electricity.

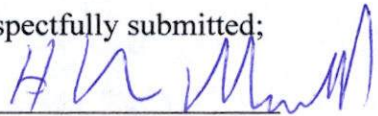
Why do the Petitioners in this case need almost 20 acres to produce less than one megawatt when it can be done on Raphel Road on 4 acres?

4F-102(B)(1) is a specific requirement included in the new solar law to only allow efficient solar arrays in Baltimore County. Land in the County may only be allocated to that area needed to create 2 megawatts, or, in this case, .825 megawatts. Poorly designed systems, and systems with inefficient panels that take up more land than is needed, should not be allowed. It appears that the Petitioners have such a system in mind. Their proposal should either be denied outright, or re-worked to take up less land in Baltimore County.

In another solar case, such a decision was made at the administrative hearing. In Case Number 2017-0108-X, concerning the property at 20450 Middletown Road, Bluefin Origination 2, LLC proposed to utilize 18.73 acres for a solar facility. After a comparison of the land needed in other solar cases to produce 2 megawatts, the Order granted the special exception, but reduced the special exception area from 18.73 acres to 13 acres. See attached Exhibit 3.

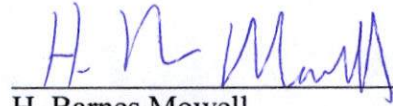
For the foregoing reasons, the Protestants respectfully request that the Opinion and Order in the instant case be reversed, and the case either be dismissed, or remanded for a new hearing before the Administrative Law Judge. In the alternative, the Special Exception area should be reduced to 4 acres, in keeping with the statutory requirement that the land be limited to only the acreage needed to produce the specified megawatts of electricity.

Respectfully submitted;


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 20th day of December 2018 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell



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2 businesses found.

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Department ID Number: Z17731399

Business Name: FOREFRONT POWER, LLC

Principal Office: 13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Resident Agent: CSC-LAWYERS INCORPORATING
SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

Status: FORFEITED

Good Standing: THIS BUSINESS IS NOT IN GOOD
STANDING

What does it mean if a business
entity is not in good standing or
forfeited?

» Order Certificate of Status

Business Type: FOREIGN LLC

Business Code: 20 ENTITIES OTHER THAN
CORPORATIONS

Date of Formation/ Registration: 01/17/2017

State of Formation: DE

Stock Status: N/A

Close Status: N/A

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REGISTRATION	1/17/2017 4:03:00 PM			3

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THE ENTITY WAS FORFEITED FOR FAILURE TO FILE PROPERTY RETURN FOR 2018.
Gene
[X Close](#)

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REGISTRATION	1/17/2017 4:03:00 PM			3

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Notice

Incorrect Forfeiture Date: A number of our customers recently received a Final Forfeiture Letter from SDAT. This letter, with a mailing date of 10/16/2018, contained an incorrect Forfeiture Date. The correct date your entity will be forfeited will be 12/17/2018, with an effective date of 10/16/2018. We apologize for any confusion the incorrect date may have caused

Please see our FAQs for additional information [HERE](#).

FOREFRONT POWER, LLC: Z17731399

General Information Filing History Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13738 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2018		No		
2017		No		
2016		No		
2015		No		
2014		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2018	0	0	
2017	0	0	

State Department of Assessments and Taxation

LIMITED LIABILITY COMPANY REGISTRATION (FEE \$100.00) (For non-Maryland Limited Liability Company)

This document must be accompanied by written proof of existence from the home state, equivalent of a Certificate of Good Standing

1) Full legal name in home jurisdiction Forefront Power LLC **AD**

2) Name it will use in Maryland if different from above

(Must include Limited Liability Company or LLC)

3) State of Formation Delaware

4) Date of Formation December 21 2016

5) Principal Office Address 13736 Riverport Drive Maryland Heights MO 63043

6) Nature of Business in Maryland Assume and enter into contracts associated with solar power projects

7) Name and Address (No P O Boxes) of Resident Agent for Service of Process in Maryland
The Corporation Trust Incorporated

351 West Camden Street Baltimore Maryland 21201

If no Resident Agent in Maryland is named or if the Agent cannot be found or served this Department is appointed as Resident Agent of this Limited Liability Company

Has this Limited Liability Company done business in Maryland prior to this registration?
Yes ☐ No ☒

(If yes an additional \$200 Penalty Must accompany this registration)

[Signature]
(Signed Authorized Person)

I hereby consent to my designation in this document as resident agent for this Limited Liability Company
The Corporation Trust Incorporated

By [Signature]
(Signed Resident Agent)
Steven P Zimmer Asst Vice President

Room 801-301 West Preston Street - Baltimore Maryland 21201
Phone (410) 767 1350 - TTY Users call Maryland Relay 1 800 735 2258
Toll Free In MD 1 888 248 5941 - website <http://www.dat.maryland.gov>

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Page 1

I, JEFFREY W BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "FOREFRONT POWER, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SEVENTEENTH DAY OF JANUARY, A D 2017

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE



6257299 8300

SR# 20170264665

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication 201879717

Date 01 17 17

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed

Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

Baltimore County Community Solar Projects

■ SE Acres/MW

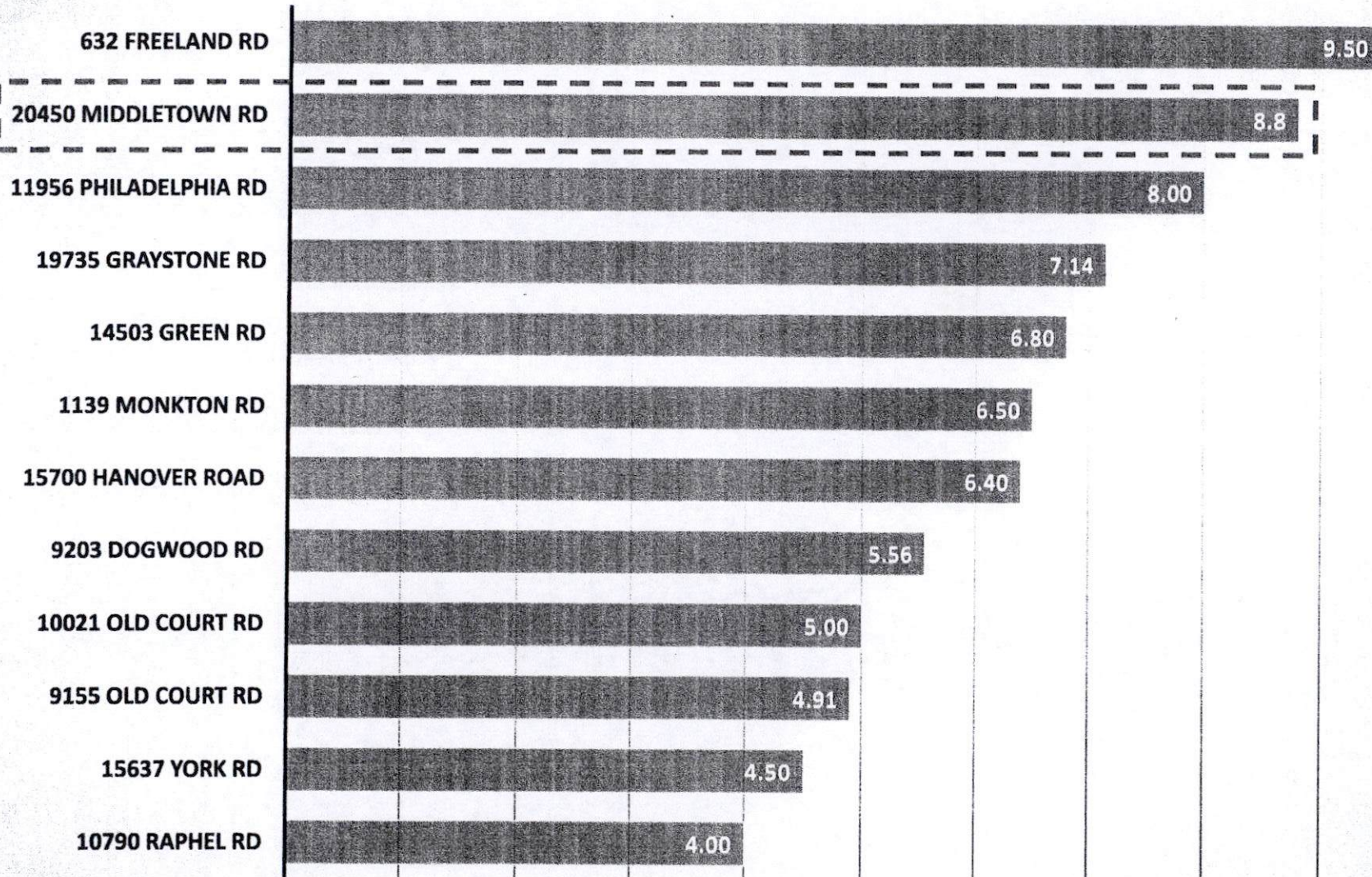


Exhibit 2

1/22/18

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20450 Middletown Road) *
6th Election District * OFFICE OF
3rd Council District *
David William Matthews * ADMINISTRATIVE HEARINGS
Legal Owner *
Bluefin Origination 2 LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * Case No. 2017-0108-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 David William Matthews, legal owner and Bluefin Origination 2, LLC, lessee ("Petitioners"). The Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") seeks approval to operate a solar facility at the subject property.

Jeffrey S. Webber and Parker Sloan with Cypress Creek Renewables, Tim Dertebaugh, Brian Conlon, and David L. Martin, L.A. with Martin & Phillips Design Associates, Inc., the firm that prepared the site plan, appeared in support of the petition. Christopher D. Mudd, Esq. and Patricia A. Malone, Esq. represented the Petitioners. Numerous citizens attended the hearing to express opposition to the request. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). Neither agency opposed the requests.

The subject property is approximately 70.979 acres and is split-zoned RC-2, RC-4, RC-5 and RC-8. The property is on Middletown Road, which is designated as a scenic route. The property was previously a farm, although with the exception of a small area there are no farming activities at the property presently. Petitioners propose to utilize 18.73 acres of the tract for a solar

facility. Petitioners would install between 8,500 to 9,000 solar panels, which would generate approximately 1.9 Mw of AC electricity.

The Lessee's zoning manager, Parker Sloane, testified his company is one of the largest solar providers in the United States, with projects in 12 states. Mr. Sloane testified the panels will be approximately 9 to 10 ft. in height and will rotate throughout the day to face the sun, although he noted the movement would be imperceptible. Like other solar proposals in Baltimore County, this facility would be unmanned and the operator will perform routine inspections 1 to 2 times per year.

Mr. Sloan stated the company had an alert system that would provide immediate notification of any problem or malfunction at the site. The witness testified his company used an "industry standard tool" and determined that there will be no concern with glare from the panels. Mr. Sloane indicated that only the inverter would generate noise, which he likened to a hair dryer. But given its location on the site he stated no noise at all would be heard from outside the property boundaries. In response to questions on cross-examination, Mr. Sloane testified Cypress Creek has completed over 200 projects since 2006, and that based on reports of appraisers hired by the company they have determined solar facilities do not have an adverse impact upon property values.

Many of the citizens had questions concerning the safety of the panels, and to address these issues the Petitioners presented testimony from Jeff Webber, an engineer employed by Cypress Creek. Mr. Webber, who was accepted as an expert, described the different types of silicon used in solar panels, and the attributes of each. He testified silicon is not a hazardous material and that the modules and the racks in which they are located are made of sand, aluminum, copper wire and steel. Mr. Webber stated only the transformer could "leak", and that if that occurred only mineral oil would be discharged. He said there was only an "extremely small risk" such a leak would

occur, and he said the hardwired monitoring system would alert the company immediately if that happened.

With regard to safety, Mr. Webber testified if the electric grid went down, the solar facility would immediately shut down. The witness stated the inverter would shut off within 2 seconds in such a scenario, and that while the panels would continue to function there would not be a current of electricity flowing and there would be no danger of electrocution. In response to questions on cross examination, Mr. Webber conceded economics drives how a facility is designed. He said while it might be possible (i.e., through use of higher efficiency panels) to generate 1.9Mw of electricity on less than 18 acres, the company would incur higher costs in doing so, which would make the project less profitable and/or economically unfeasible.

The final witness was David Martin, a registered landscape architect accepted as an expert. Mr. Martin prepared both the site plan (Exhibit 1) and the schematic landscape plan (Exhibit 8) for the project. He described the project and reviewed each of the requirements of B.C.Z.R. Article 4B, which he stated Petitioners satisfied. Mr. Martin opined the use proposed was "benign," and he testified Petitioners satisfied all requirements for a special exception. He also indicated that in connection with an earlier zoning case (No. 2000-0342-SPH) involving this property—which permitted the construction of a dwelling on an undersized parcel—environmental buffers were provided to Baltimore County to protect the water and forest resources on the site.

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. Martin opined Petitioners satisfied the requirements of B.C.Z.R. § 502.1 and applicable case law, which under *Attar* and similar cases established a *prima facie* case entitling them to the special exception. While the neighbors expressed many valid concerns with the facility, the issues they identified are inherent in the operation of a solar facility. As such, I do not believe that testimony can rebut the presumption provided by Maryland law that special exception uses are in the public interest.

Having said that, I believe the community raised one issue in particular which warrants further discussion; i.e., the size of the special exception area. The law states that the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts . . . of electricity." B.C.Z.R. §102.A.1. Based on Mr. Webber's testimony, there appear to be numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments.

But in this scenario, they must do so in keeping with the above-quoted provision. Similar solar facilities have been approved in several recent cases. What follows is the case number, special exception area and electricity generated:

2018-0047 (9 acres; 2Mw)
2018-0052 (6.4 acres; 1Mw)
2018-0072 (6 acres; 840Kw)
2018-0078 (9.8 acres; 2Mw)
2018-0095 (16 acres; 2Mw)

While the community opposed the request in each of the above cases (with the exception of No. 2018-0095, which was unopposed), this is the first case in which the acreage issue was squarely presented. Each of the petitioners in the above cases was (like the Lessee here) a for-profit entity, which means it is safe to assume the projects proposed were economically viable. I certainly understand there are a variety of factors which inform the design and layout of a solar facility, but based on the foregoing I believe a 13 acre special exception area would be sufficient to allow for the production of 2Mw of electricity, and such a restriction will be included below.

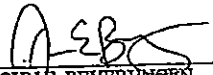
THEREFORE, IT IS ORDERED this 22nd day of January, 2018, by this Administrative Law Judge, that the Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for a Solar Facility, be and is hereby GRANTED.

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 submit for approval by Baltimore County a landscape plan for the site demonstrating, among other things, appropriate screening and vegetation is provided along the scenic route, as required by the Landscape Manual.
3. Petitioners shall install a fence of sufficient height surrounding the solar panels which will, per the electric code, prevent the need for a barbed wire fence enclosure.
4. No weed killers or herbicides shall be used to control weed or grass growth at the facility.

5. Prior to issuance of permits, Petitioners must satisfy the environmental regulations set forth in Article 33 of the Baltimore County Code, pertaining to the protection of water quality, streams, wetlands and floodplains.
6. No trees shall be removed from the special exception area shown on the site plan in connection with the construction and/or operation of the solar facility.
7. Petitioners shall within 30 days of the date hereof submit to the OAH a redlined site plan showing a "special exception area" for the solar facility no larger than thirteen (13) acres.

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

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0057-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 The Farm, LLC, legal owner and Forefront Power, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Professional engineer Andrew Brown and landscape architect Stacy McArthur appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. Two interested 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 Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). None of the reviewing agencies opposed the request.

This case involves a 52.4 acre tract of land along a scenic route in northern Baltimore County. The subject property is zoned RC-2 and a 19.9 acre portion of the site is designated for the special exception use; the balance of the site is planted with crops and is farmed. The proposed solar panels would occupy approximately 6 acres of the special exception area, and the facility would generate 0.825 megawatts alternating current (AC) of electricity.

ORDER RECEIVED FOR FILING

Date

11/27/18

By

slr

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.

Ms. McArthur, a landscape architect accepted as an expert, opined Petitioners satisfied all requirements set forth in BCZR Section 502.1 and BCZR Article 4F concerning solar facilities. The witness testified the forest buffer was delineated and shown on the site plan and that none of the proposed solar panels would be in an environmentally-sensitive area. Ms. McArthur also testified there was no flood plain on site and that the large areas of forest at the south of the site would be protected by a forest conservation easement.

Based on this testimony and the exhibits submitted at the hearing Petitioners have established a *prima facie* case entitling them to the special exception. I do not believe the testimony from Protestants successfully rebutted this *prima facie* case. James Baseman, who lives about one mile from the site, testified that solar facilities should not be in the RC 2 zones, and would be much more appropriate in a commercial area. That may be the case, but the County Council decided otherwise and Bill 37-17 expressly permits solar facilities in RC-2 zones and along scenic routes. The bottom line is the Protestants' objections in this case are virtually identical to those expressed by opponents in all of the prior zoning cases proposing solar facilities

ORDER RECEIVED FOR FILING

Date 11/27/18
By sln

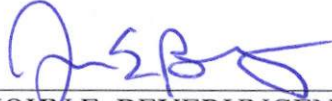
in northern Baltimore County. I believe this underscores that these are detrimental impacts inherent in the operation of a large solar facility, and the petition cannot be denied on that basis. *Montgomery County v. Butler*, 417 Md. 271, 276-77 (2010) (opponent must show “non-inherent adverse effect” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”).

THEREFORE, IT IS ORDERED this 27th day of **November, 2018**, by this Administrative Law Judge, that the Petition for Special Exception 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 DOP, copies of which are attached hereto and made a part hereof.
3. No barbed wire fencing shall be permitted in connection 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

11/27/18

By

sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

ORDER RECEIVED FOR FILING

S:\Planning\Shared\Users\wlippincott\scenic view development plan review\20920 Old York Road.docx

Date

By

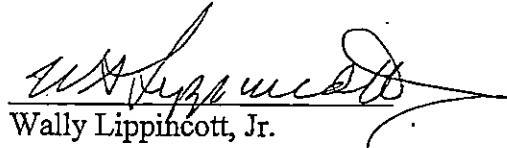
11/27/18

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site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

ORDER RECEIVED FOR FILING

Date 11/27/18
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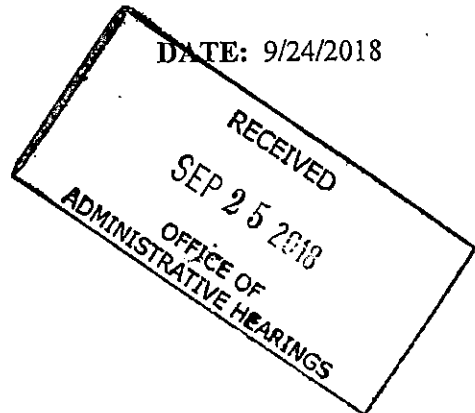
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

- 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 §4E-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.

ORDER RECEIVED FOR FILING

Date

11/27/18

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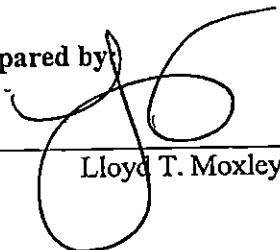
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- Signage shall be limited to that which is necessary for safety and security purposes.
- No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 6 P.M. through 6 A.M.
- Indicate on the plan the means and location by which the solar facility connects to the power grid and whether grading or clearing will be involved.

Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

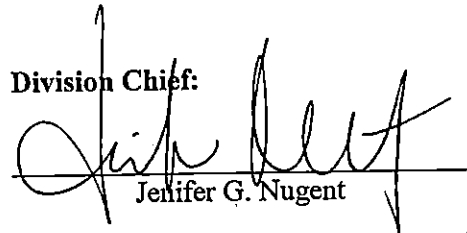
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

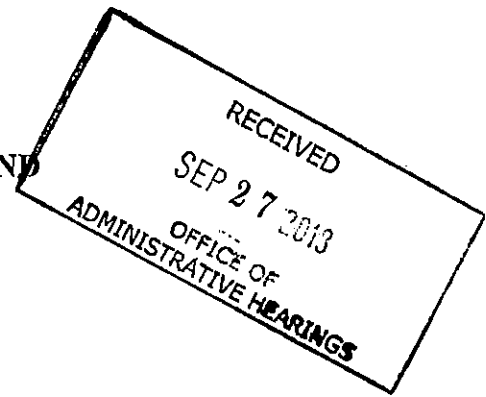
ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

11-20

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date 11/27/18
By Sen



DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 27, 2018

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

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,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

CASE NAME The Fanon
CASE NUMBER 2019-57-X
DATE 11/20/18

[illegible]



CASE NAME 2019-0057-X
CASE NUMBER _____
DATE 11/20/18

CITIZEN'S SIGN - IN SHEET

E - MAIL

[illegible]

SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER

DATE: 11/17/2018

Case Number: 2019-0057-X

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~

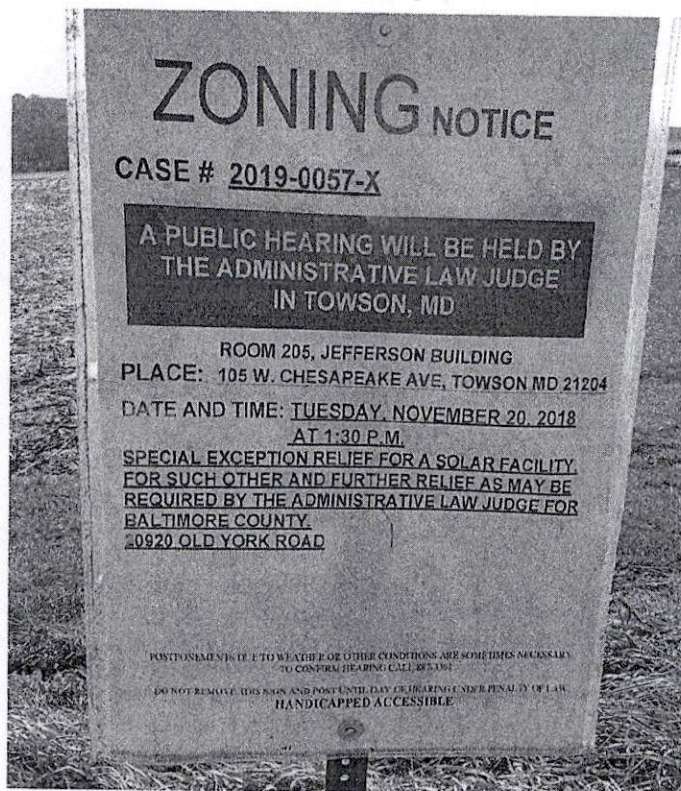
BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: **OCTOBER 27, 2018**

The sign(s) were re-photographed on: **NOVEMBER 17, 2018**



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)





1st Sign

2nd Sign

Re-photographed 11/17/2018 @ 20920 Old York Rd.
CASE # 2019-0057-X



JB 11-20-18
1:30 PM

Debra Wiley

From: Linda Okeefe <luckylinda1954@yahoo.com>
Sent: Saturday, November 17, 2018 8:53 PM
To: Administrative Hearings
Subject: 2nd Certification Case # 2019-0057-X
Attachments: Old York Rd. Cert..jpeg; Old York Rd. photos.docx

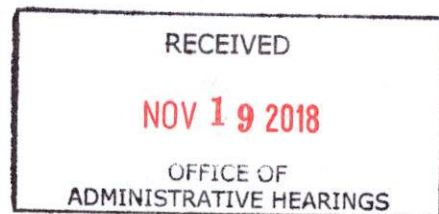
Hi Sherry,

I have attached the 2nd Certification along with photos for Case # 2019-0057-X @ 20920 Old York Rd.

Thank you,

Linda

Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com





DONALD I. MOHLER III
County Executive

November 16, 2018

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

Dennis Danielczyk, Jr.
1600 Shore Rd.
Baltimore, MD 21220

Dear Mr. Danielczyk, Jr.:

RE: Case Number: 2019-0057X, Address: 20920 Old York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 20, 2018. 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,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: MTC

Enclosures

c: People's Counsel
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC 600 Washington Ave. Ste 200 Towson, MD 21204
Brian Maliszewski, Authorized Rep. of Forefront Powe, LLC. 100 Montgomery St. Ste 728 San Francisco, CA 94104

ZAC
Comments

BALTIMORE COUNTY, MARYLAND**INTER-OFFICE CORRESPONDENCE**

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning



PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

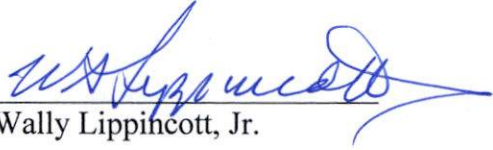
- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

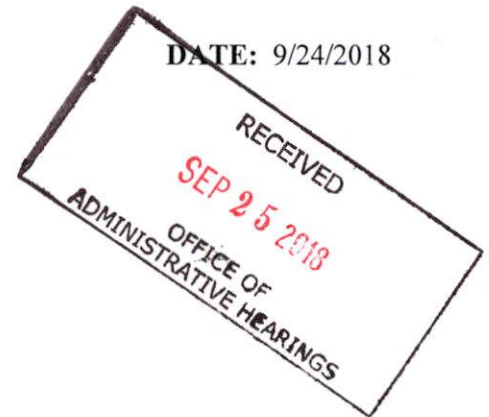
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to *"maintain a buffer between the road and the new development"* (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

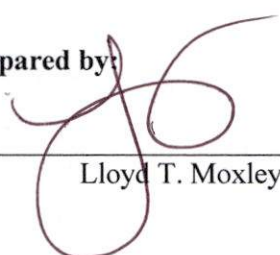
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-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.

Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

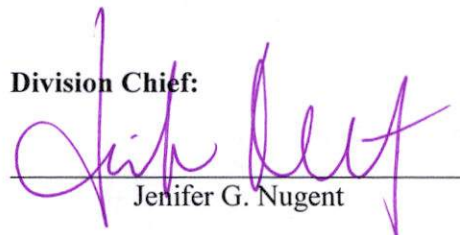
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley

James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

11-20

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
me
FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

DATE: September 12, 2018

SUBJECT: Zoning Advisory Committee Meeting
For September 03, 2018
Item No. 2019-0057-X

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.

Proposed gravel access road should be paved in order to be dustless and durable.

Specific landscape comments:

1. Old York Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. 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 # 7 below),
5. More comments may be rendered during review of the landscape plan and 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,
6. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
7. Landscape screening appears to be needed to address adjacent properties views as it relates to the proposed solar facility. Including, but not limited to 20912, 20916 and 21004 Old York Road (Scenic Route).

* * * * *

VKD: cen
cc: file



STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 8/27/18

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2019-0057-X

*Special Exception
The Farm LLC, Dennis Danielczyk
20920 Old York Road.*

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100

<http://www.thedailyrecord.com>

PUBLISHER'S AFFIDAVIT

Order #: 11629823
Case #: 2019-0057-X
Description:

NOTICE OF ZONING HEARING CASE NUMBER: 2019-0057-X

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:

10/31/2018



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: 2019-0057-X

20920 Old York Road

S/s Old York Road, n/w of Bond Road

7th Election District - 3rd Councilmanic District

Legal Owners: The Farm, LLC, Dennis Danielezyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Maliszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.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 ACCOMMODATIONS, 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.

o31

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/27/2018

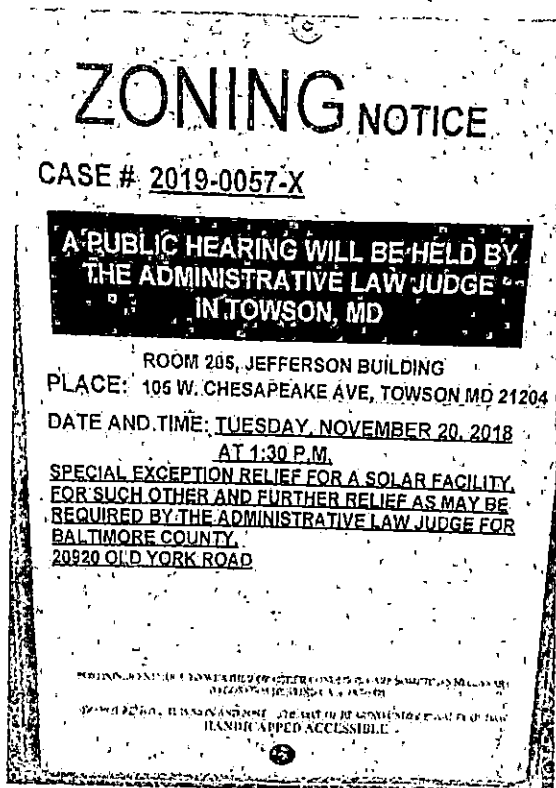
Case Number: 2019-0057-X

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~
BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s)
required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: OCTOBER 27, 2018



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



1st Sign posted @ 20920 Old York Rd. 10/27/2018



2nd Sign posted @ 20920 Old York Rd. 10/27/2018
CASE # 2019-0057-X



DONALD I. MOHLER III
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 26, 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: 2019-0057-X

20920 Old York Road

S/s Old York Road, n/w of Bond Road

7th Election District – 3rd Councilmanic District

Legal Owners: The Farm, LLC, Dennis Danielczyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Maliszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Brian Maliszewski, Forefront Power, 100 Montgomery St., Ste. 725, San Francisco CA 94104
Dennis Danielczyk, The Farm, 1600 Shore Road, Baltimore 21220

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WED., OCTOBER 31, 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	*	BEFORE THE OFFICE
20920 Old York Road; S/S Old York Road,		
1000' NW Bond Road	*	OF ADMINISTRATIVE
7 th Election & 3 rd Councilmanic Districts		
Legal Owner(s): The Farm, LLC	*	HEARINGS FOR
by Dennis Danielczyk, Jr.		
Contract Purchaser(s): Forefront Power, LLC*		BALTIMORE COUNTY
Petitioner(s)	*	2019-057-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 29 2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2018, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

August 16, 2018

ZONING DESCRIPTION

20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 1,000 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following ten (10) courses and distances:

1. South 64°18'09" East 179.17 feet to a point; thence
2. South 28°33'30" West 304.69 feet to a point; thence
3. South 51°37'52" East 303.87 feet to a point; thence
4. South 29°50'05" West 573.56 feet to a point; thence
5. North 60°09'55" West 277.82 feet to a point; thence
6. South 33°39'24" West 500.85 feet to a point; thence
7. North 51°04'18" West 766.16 feet to a point; thence
8. North 47°09'00" East 872.37 feet to a point; thence
9. South 60°49'35" East 231.60 feet to a point; thence
10. North 41°01'28" East 462.51 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.

H:\D S. THALER & ASSOC. LLC\Projects DST&A, LLC\Old York Road, 20920 (04354)\Zoning Description 20920 OLD YORK ROAD.docx



Item #0057



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 20920 Old York Road which is presently zoned RC 2

Deed References: 25248/00682

10 Digit Tax Account # 0708001050

Property Owner(s) Printed Name(s) The Farm, 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name- Type or Print

Signature

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / B.Maliszewski.d

Zip Code Telephone # Email Address

Forefront Power, LLC

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Shore Road

Baltimore

MD

Mailing Address

City

State

21220

Zip Code

Telephone #

Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address

City

State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code

Telephone #

Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Do Not Schedule Dates:

Date

11/27/18

Reviewer

REV. 10/4/11

By

Sen

ORDER RECEIVED FOR FILING

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item #0057

Ref No 5

November 13, 2018

ZONING DESCRIPTION

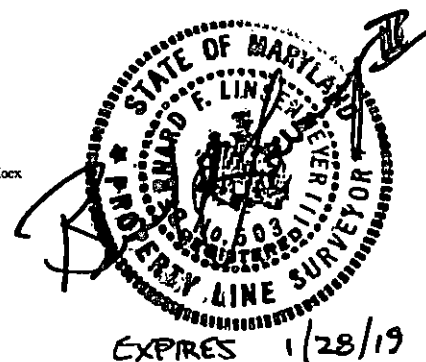
20920 OLD YORK ROAD

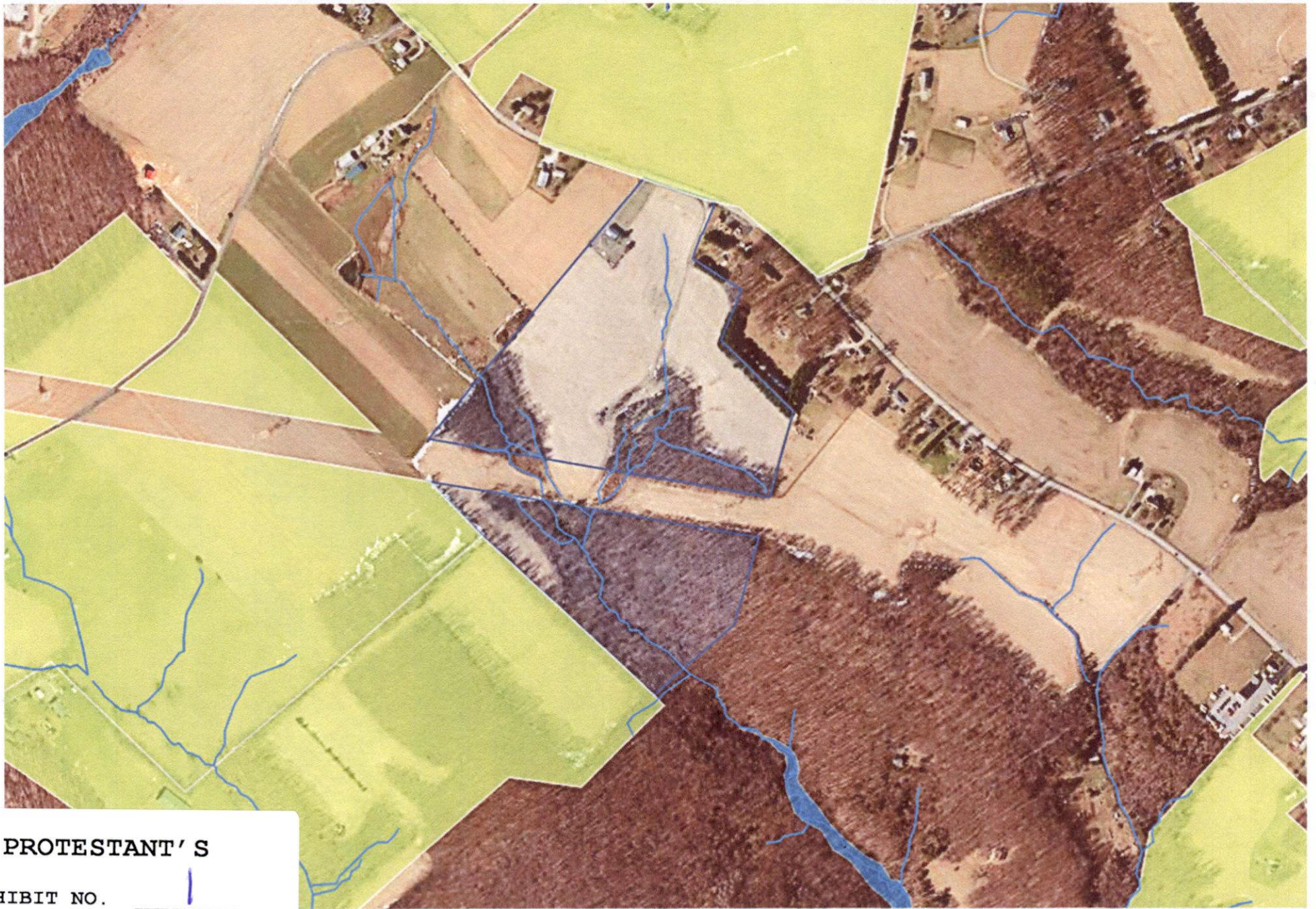
Beginning for the same on the south side of Old York Road, approximately 850 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following eleven (11) courses and distances:

1. South 71°20'29" East 146.77 feet to a point; thence
2. South 76°48'11" East 32.20 feet to a point; thence
3. South 21°21'15" West 309.32 feet to a point; thence
4. South 58°50'07" East 303.87 feet to a point; thence
5. South 22°37'50" West 573.56 feet to a point; thence
6. North 67°22'10" West 277.82 feet to a point; thence
7. South 26°27'09" West 500.85 feet to a point; thence
8. North 58°16'32" West 765.35 feet to a point; thence
9. North 39°56'45" East 872.25 feet to a point; thence
10. South 68°01'50" East 231.60 feet to a point; thence
11. North 33°49'13" East 464.66 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.





PROTESTANT'S

EXHIBIT NO. 1

20920 Old York Rd Case #2019-0057-X

Light blue area: property Light Green areas: Preserved land Site zoning: RC2 and is within an APPA.

Turquoise areas: floodplains This map shows at least 7 waterways/seeps on property.

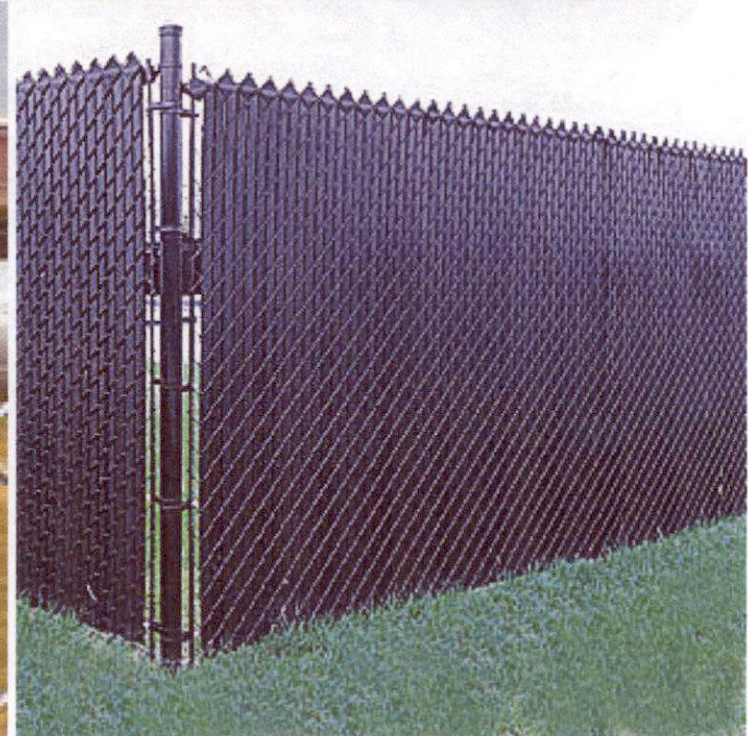
Rt 439 (Old York Rd) is a scenic road; this site has many visual vantage points along Rt 439, Sampson Rd and Bond Rd, which is also designated scenic.

Prot. #1



All of these animals are indigenous to Baltimore County.

PROTESTANT' S
EXHIBIT NO. 2



Images of chain link fencing: The 3 black fences have exposed ends of wire at top. In order to protect wildlife, fence image on bottom left is preferred for rural environments for top of fencing. Not only are ends of wire bent to avoid exposed raw ends, but positioning bar at top of fence adds an additional layer of protection.

Both images on right include plastic strips for concealing purposes, which would look industrial, not natural in this rural setting. None of these fences would enhance or promote a scenic vista at this site, rather they would change the appearance of and promote a commercial environment that does not exist in this specific agricultural community, especially on a scenic route with community views.



Sparks-Glencoe Community
Planning Council
P.O. Box 937, Sparks, MD 21152

PROTESTANT' S

November 20, 2018

EXHIBIT NO. 3

The Honorable John E. Beverungen
Office of the Administrative Law Judge
The Jefferson Building
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2019-0057-X
20920 Old York Rd
3rd Councilmanic District
Legal Owner: The Farm, LLC
Contract Purchaser: Forefront Power, LLC
Hearing Date: November 20, 2018

Dear Judge Beverungen:

The Sparks-Glencoe Community Planning Council (SGCPC) is submitting this letter regarding a request for a special exception for a commercial solar facility in the Third Councilmanic District. This is the latest in a string of such special exception hearings in this District in the past twelve 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 contiguous landholders; impair the viewshed; and impacts surrounding waterways. The Department of Planning is beginning to understand the growing problem for agriculture that this kind of development represents. The Planning Department has acknowledged the Master Plan's warning of "incremental development" as a threat to the agricultural industry. We encourage you to include the question of continued viability of commercial agriculture 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 these projects. **In the recent campaign for County Executive, both candidates promised the Third District residents that the solar land rush would stop.**

Our concerns are particularly acute with regard to this project. Not only is it designated for prime and productive farmland on a scenic route, but also there are no less than seven

springheads and waterways. This entire area is within the Chesapeake Bay watershed. We need the natural springs to support local flora and fauna. These springs also filter water going into the Loch Raven reservoir, which as I am sure you know, is the primary source of drinking water for Baltimore City and much of the County. That reservoir continues to fail to meet federal standards for clean water.

In the event that the special exception is granted, we have several specific concerns. First, we request that any special exception be conditioned on the Department of Permits, Approvals, and Inspections (PAI) imposing 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 approval process. 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.

Second, the SGCPC is concerned about the impact on neighboring landowners. This particular site is on a scenic route which is in full view from several visual perspectives. 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 protect the view from the adjoining roadways, the adjacent property owners, and 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. Accordingly, this project should be denied. If, however, the special exception is granted, there must obviously be many limitations designed to protect the public in general, the environment, water supply 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 consideration in this matter.

Sincerely,


Lynne Jones, President



Sparks Glencoe Community Planning Council Boundaries

3A

ZONING NOTICE

CASE # 2019-0057-X

A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

ROOM 205, JEFFERSON BUILDING

PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204

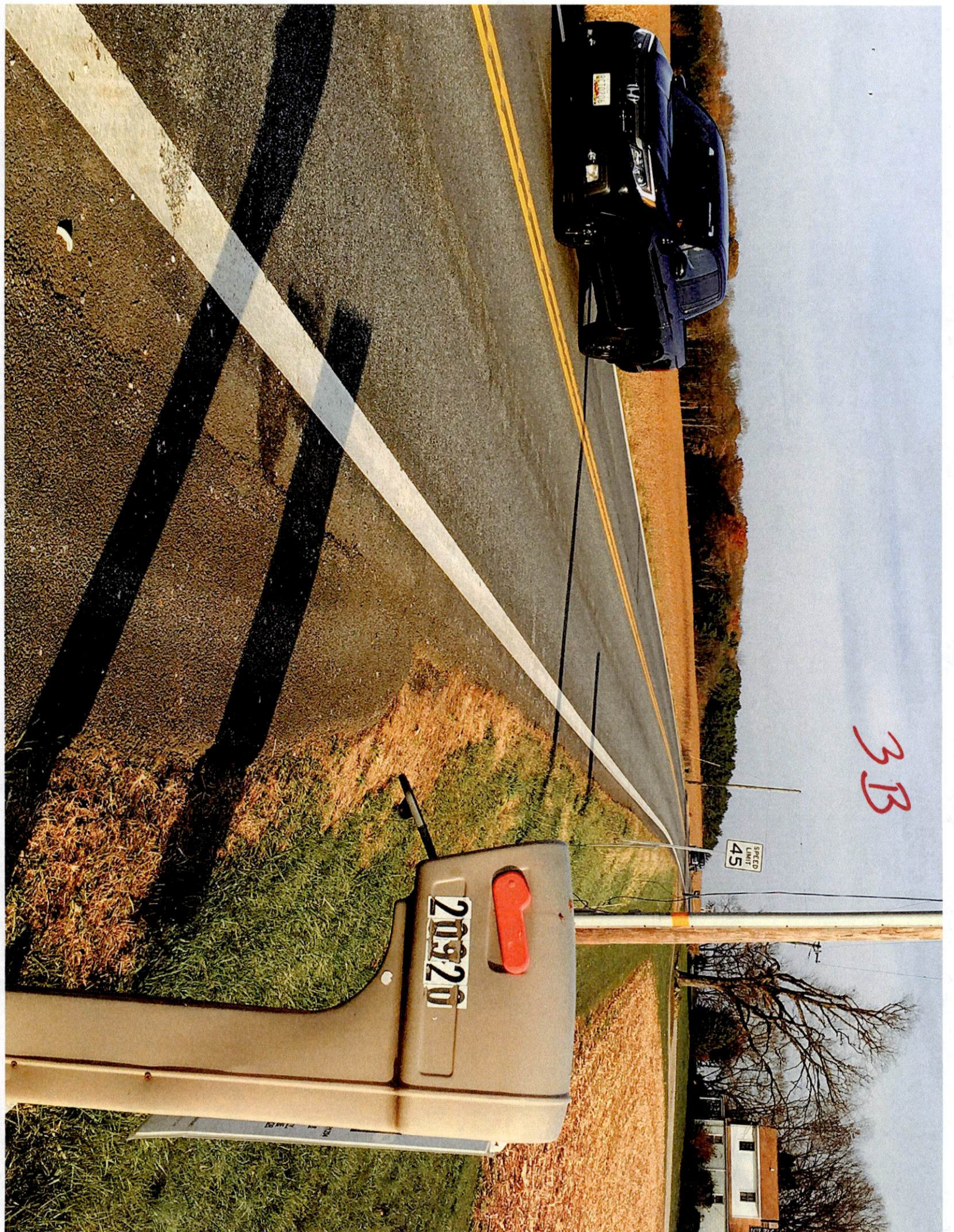
DATE AND TIME: TUESDAY, NOVEMBER 20, 2018
AT 1:30 P.M.

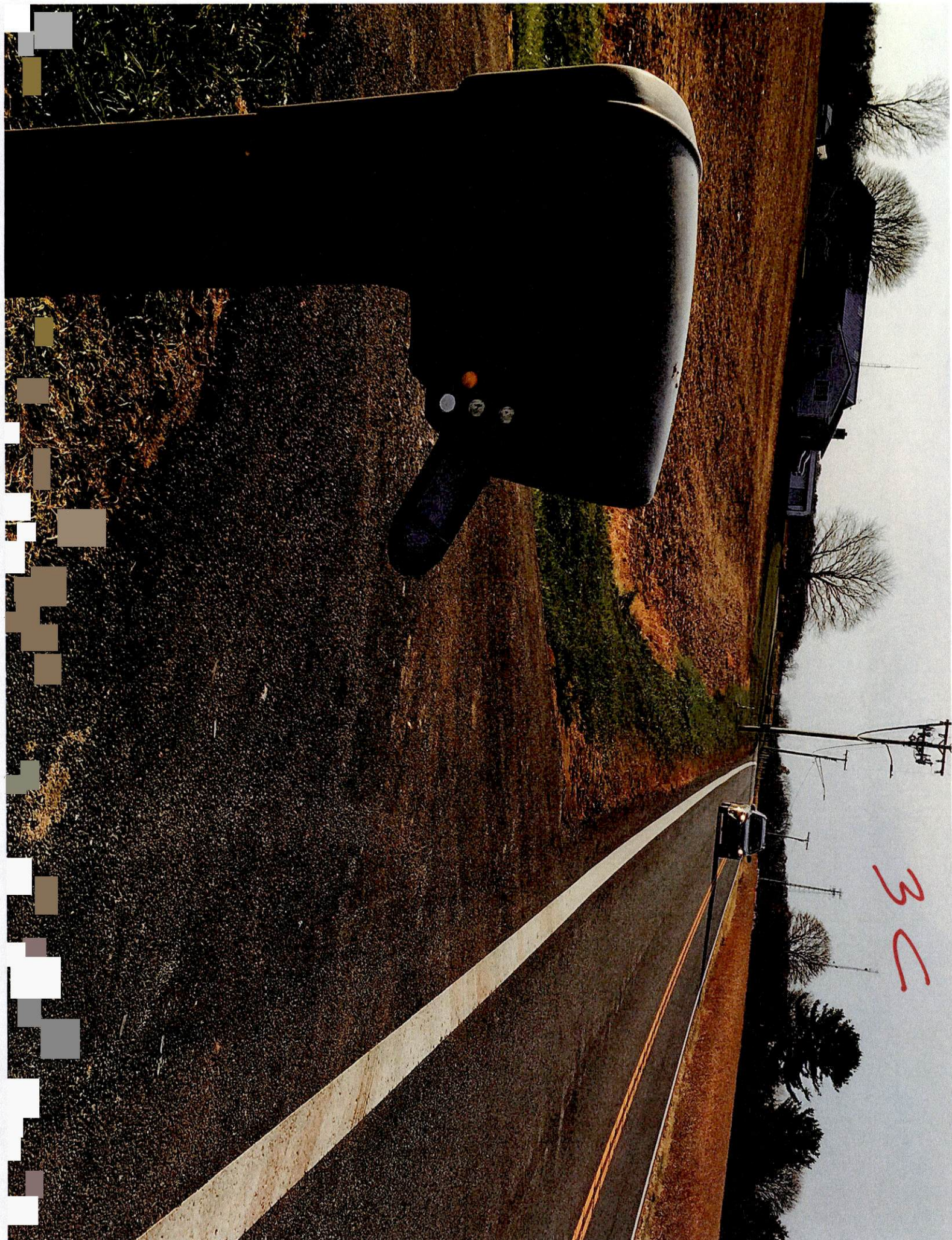
SPECIAL EXCEPTION RELIEF FOR A SOLAR FACILITY,
FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE
REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR
BALTIMORE COUNTY,
20920 OLD YORK ROAD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFORM HEARINGS CALL 877-337-1

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

3B



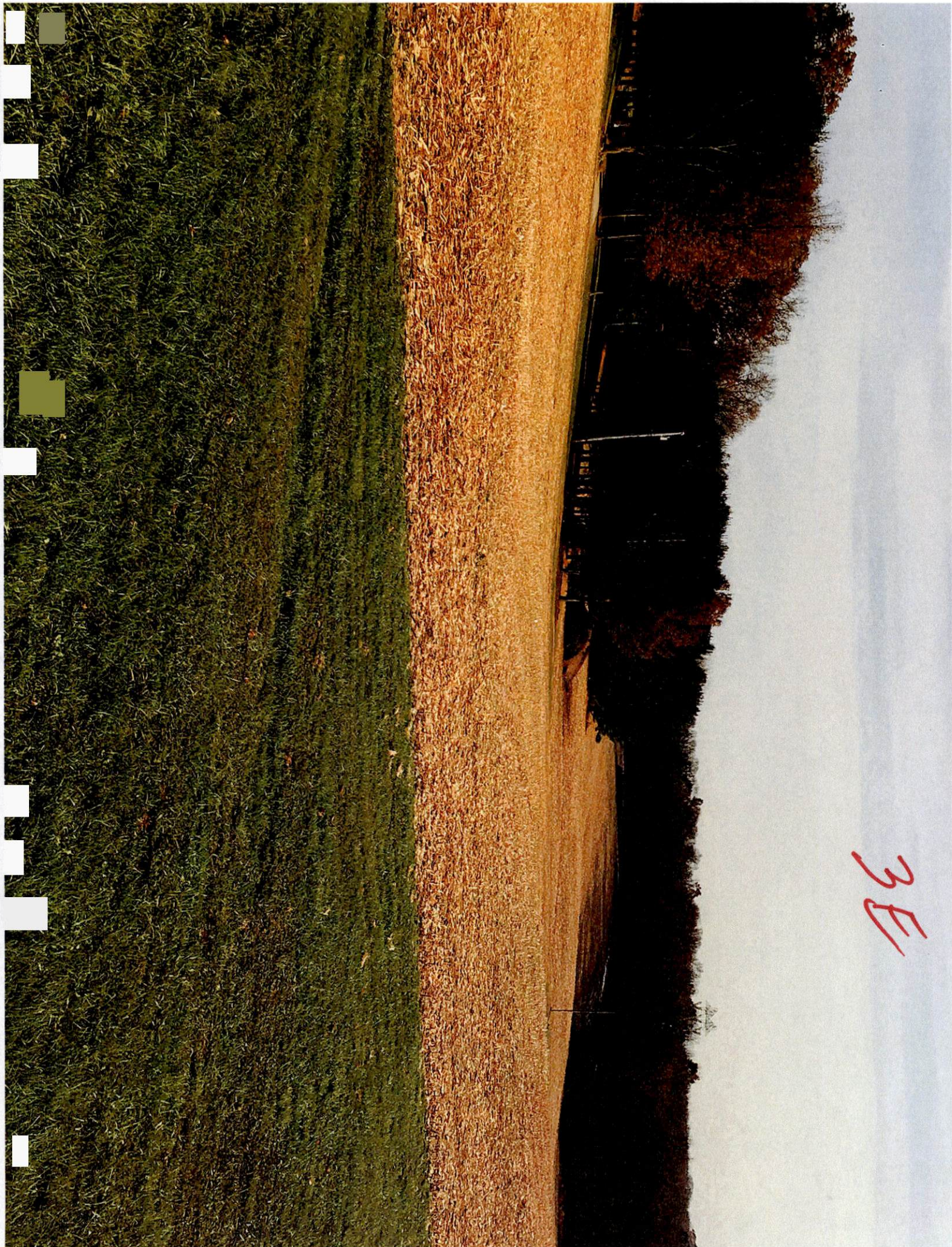


3C



3D

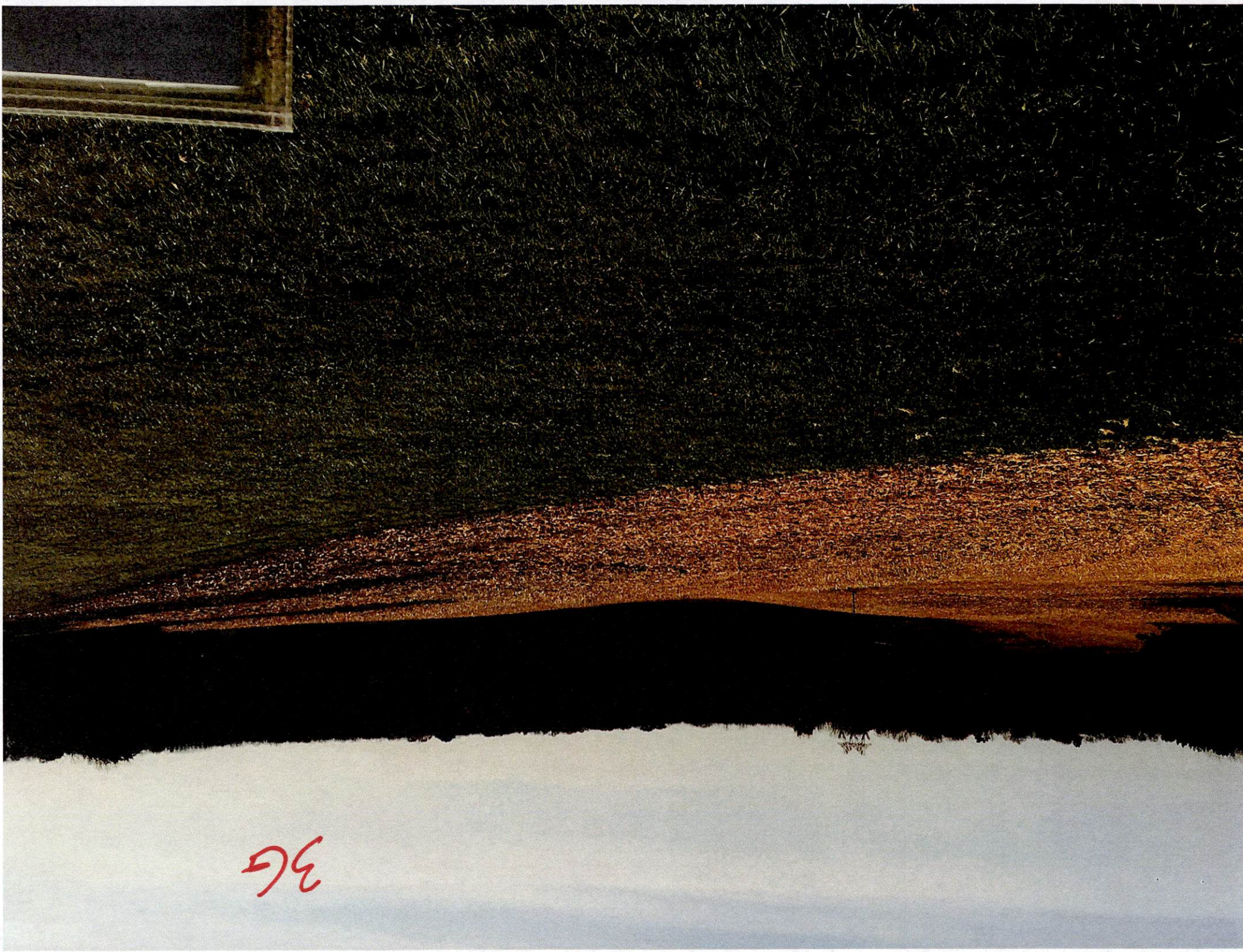
3E



3F



36





3H

31

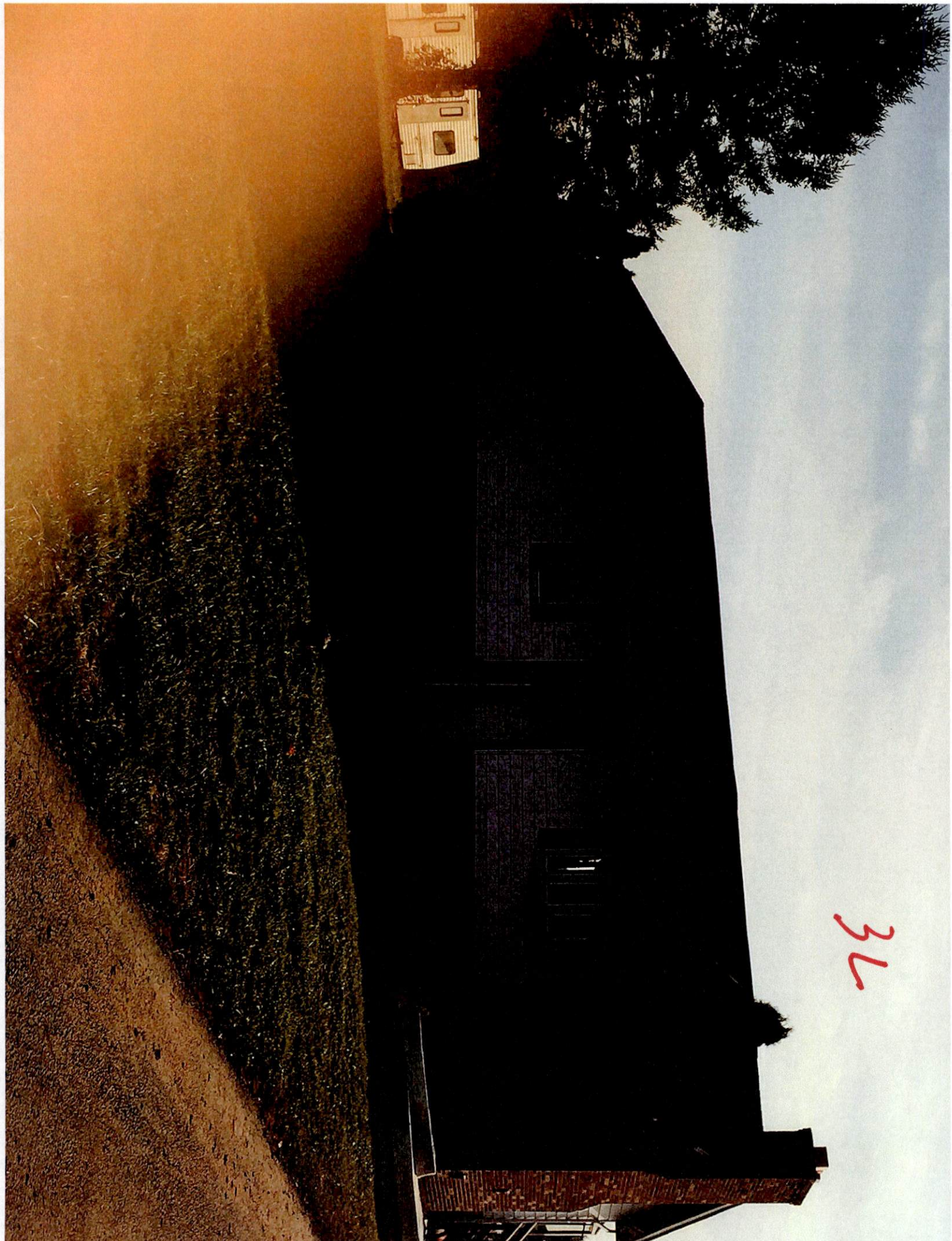




35



3K



34

3M



3N





3" 0" 6"

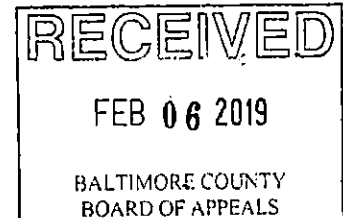


JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 6, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204



RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Exception - Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 5, 2019. 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,
A handwritten signature in black ink, appearing to read "JEB", is written over the name "JOHN E. BEVERUNGEN".
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln

c: Baltimore County Board of Appeals
People's Counsel
H. Barnes Mowell, Esq., 16925 York Road, Monkton, Maryland 21111
James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

APPEAL

**Petition for Special Exception
(20920 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: The Farm, LLC
Lessee: Forefront Power, LLC
Case No. 2019-0057-X**

Petition for Special Exception (August 20, 2018)

Zoning Description of Property (April 16, 2018)

Certificate of Posting – 1st Posting October 27, 2018 (Linda O’Keefe)
2nd Posting November 17, 2018 (Linda O’Keefe)

Newspaper Advertisement – October 31, 2018 – The Daily Record

Notice of Zoning Hearing – September 26, 2018

People’s Counsel Entry of Appearance – August 29, 2018

Zoning Advisory Committee Comments

Petitioner’s Sign-in Sheets – 1 Sheet

Citizen’s Sign-in Sheets- 1 Sheet

Petitioner(s) Exhibits –

1. Plan
2. Aerial w/landscaping
3. 3“A”-3“O” Photos
4. Aerial plan w/site boundary
5. Zoning Description

Protestant(s) Exhibits –

1. Aerial photo/map w/environmental features
2. Photos of Animals on Fences
3. 11-20-2018 Sparks-Glencoe letter

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – November 27, 2018)

Motion for Reconsideration- December 20, 2018 by H. Barnes Mowell

Petitioner’s Response to Motion For Reconsideration- January 4, 2019 by Lawrence E. Schmidt

Administrative Law Judge Order and Letter on Motion For Reconsideration (DENIED-January 8, 2019)

Appeal Notice, Letter & Receipt received from H. Barnes Mowell, Esq. – February 5, 2019



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 20920 Old York Road

which is presently zoned RC 2

Deed References: 25248/00682

10 Digit Tax Account # 0708001050

Property Owner(s) Printed Name(s) The Farm, LLC

(SELECT THE HEARING(S) BY MARKING ☒ 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name - Type or Print

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / bmaliszewski@forefrontpower.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1 Signature #2

1600 Shore Road Baltimore MD

Mailing Address City State

21220 / /

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING

Do Not Schedule Dates:

Date

11/27/18

Reviewer

REV. 10/4/11

By

Den

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item # 0057

August 16, 2018

ZONING DESCRIPTION

20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 1,000 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following ten (10) courses and distances:

1. South 64°18'09" East 179.17 feet to a point; thence
2. South 28°33'30" West 304.69 feet to a point; thence
3. South 51°37'52" East 303.87 feet to a point; thence
4. South 29°50'05" West 573.56 feet to a point; thence
5. North 60°09'55" West 277.82 feet to a point; thence
6. South 33°39'24" West 500.85 feet to a point; thence
7. North 51°04'18" West 766.16 feet to a point; thence
8. North 47°09'00" East 872.37 feet to a point; thence
9. South 60°49'35" East 231.60 feet to a point; thence
10. North 41°01'28" East 462.51 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.

H:\D.S. THALER & ASSOC., LLC\Projects DST&A, LLC\Old York Road, 20920 (04354)\Zoning Description 20920 OLD YORK ROAD.docx



Item #0057

C H E C K L I S TComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment9/12DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)Comment9/27DEPS
(if not received, date e-mail sent _____)Comment

FIRE DEPARTMENT

9/25PLANNING
(if not received, date e-mail sent _____)Comment8/27

STATE HIGHWAY ADMINISTRATION

No Obj

TRAFFIC ENGINEERING

10/30DOP ScenicComment

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 10/31/18SIGN POSTING (1st) Date: 10/27/18 by O'KeefeSIGN POSTING (2nd) Date: 11/17/18 by O'KeefePEOPLE'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			
Tax Exempt:			Special Tax Recapture:						
Exempt Class:			AGRICULTURAL TRANSFER TAX						
Account Identifier:			District - 07 Account Number - 0708001050						
Owner Information									
Owner Name:		THE FARM LLC			Use:		AGRICULTURAL		
					Principal Residence:		NO		
Mailing Address:		1600 SHORE RD BALTIMORE MD 21220-			Deed Reference:		/25248/ 00682		
Location & Structure Information									
Premises Address:		20920 OLD YORK RD 0-0000			Legal Description:		52.417 AC 20920 OLD YORK RD 610FT NW BOND RD		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0007	0011	0061		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	
1979		2,347 SF		729 SF		52.4100 AC		05	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
Split Foyer	YES	SPLIT FOYER	FRAME	2 full					
Value Information									
			Base Value	Value	Phase-in Assessments				
				As of	As of		As of		
				01/01/2017	07/01/2018		07/01/2019		
Land:			89,300	89,300					
Improvements			225,100	245,300					
Total:			314,400	334,600	327,867		334,600		
Preferential Land:			8,300				8,300		
Transfer Information									
Seller: HALL WILLIAM C				Date: 02/23/2007		Price: \$550,000			
Type: ARMS LENGTH IMPROVED				Deed1: /25248/ 00682		Deed2:			
Seller: AG USE 83-84				Date: 05/03/1962		Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /03985/ 00055		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:			AGRICULTURAL TRANSFER TAX						

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No
Application

Date:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

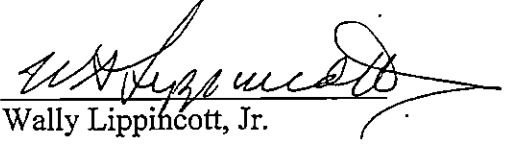
- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.



Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 9/24/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057

INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "*maintain a buffer between the road and the new development*" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

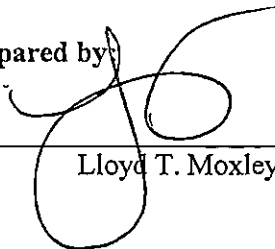
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-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.

Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

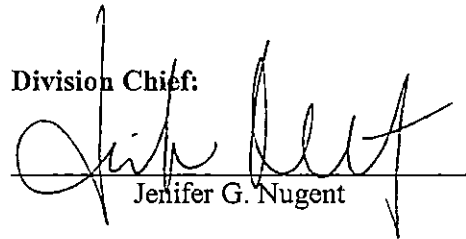
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley

James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

TO: THE DAILY RECORD
Wednesday, October 31, 2018 - Issue

Please forward billing to:
Lawrence Schmidt
Smith, Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

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: 2019-0057-X

20920 Old York Road
S/s Old York Road, n/w of Bond Road
7th Election District – 3rd Councilmanic District
Legal Owners: The Farm, LLC, Dennis Danielczyk, Jr.
Contract Purchaser/Lessee: Forefront Power, LLC, Brian Maliszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

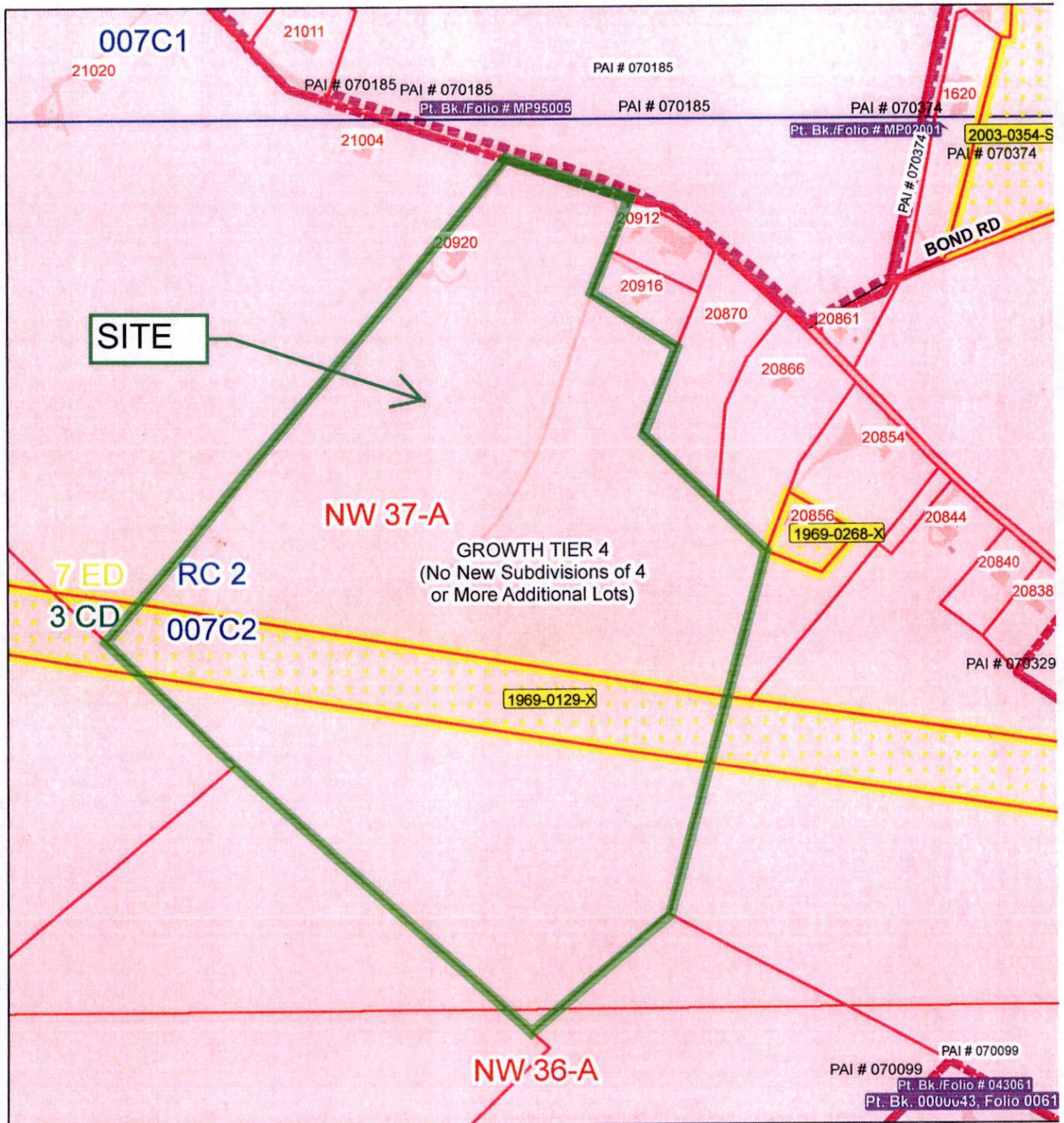
Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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.

20920 Old York Road



Publication Date: 8/10/2018



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 112.5 225 450 675 900
Fe

1 inch = 400 feet

Item #0057

**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: 2019-0057-X
Property Address: 20920 Old York Road
Property Description: south side of Old York Rd., +/- 1000'
northwest of Bond Ave
Legal Owners (Petitioners): The Farm, LLC
Contract Purchaser/Lessee: Forefront Power, LLC

PLEASE FORWARD ADVERTISING BILL TO:

Name: Lawrence E. Schmidt, Esquire
Company/Firm (if applicable): Smith, Gildea & Schmidt, LLC
Address: 600 Washington Avenue, Suite 200
Towson, MD 21204
Telephone Number: 410-821-0070

Revised 7/9/2015

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **173201**

Date: **8/20/18**

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
8/21/2018 8/20/2018 10:25:14 5
REC 0605 WALKIN FRP
RECEIPT # 771288 8/20/2018 OFLN
5 528 ZONING VERIFICATION
NO 173201
Recpt Tot \$500.00
\$500.00 CI \$5.00 CA
Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		60150				500.00

Total: **500.00**

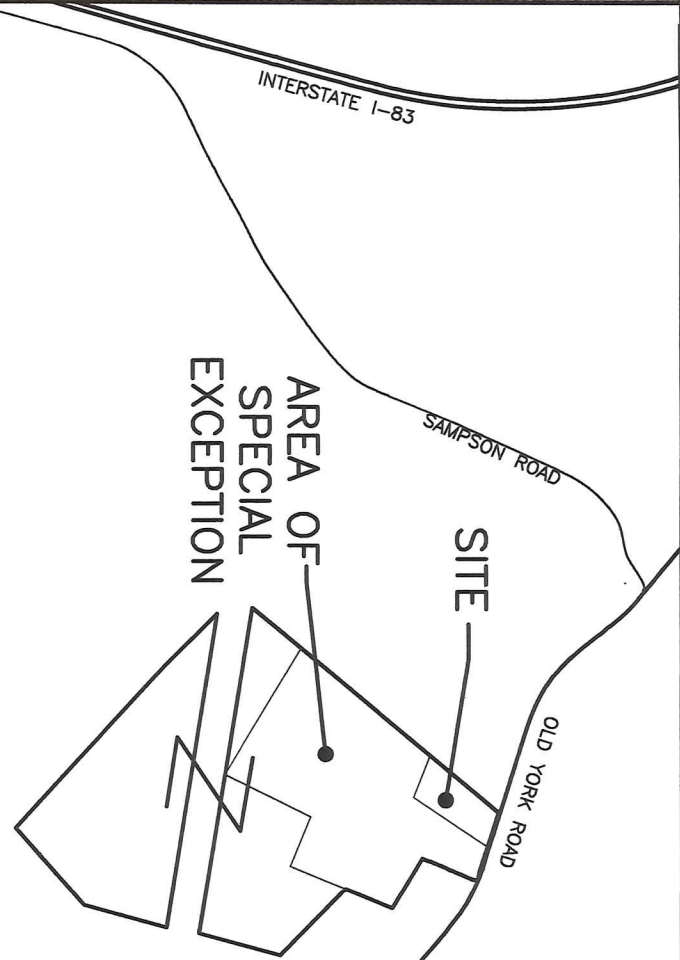
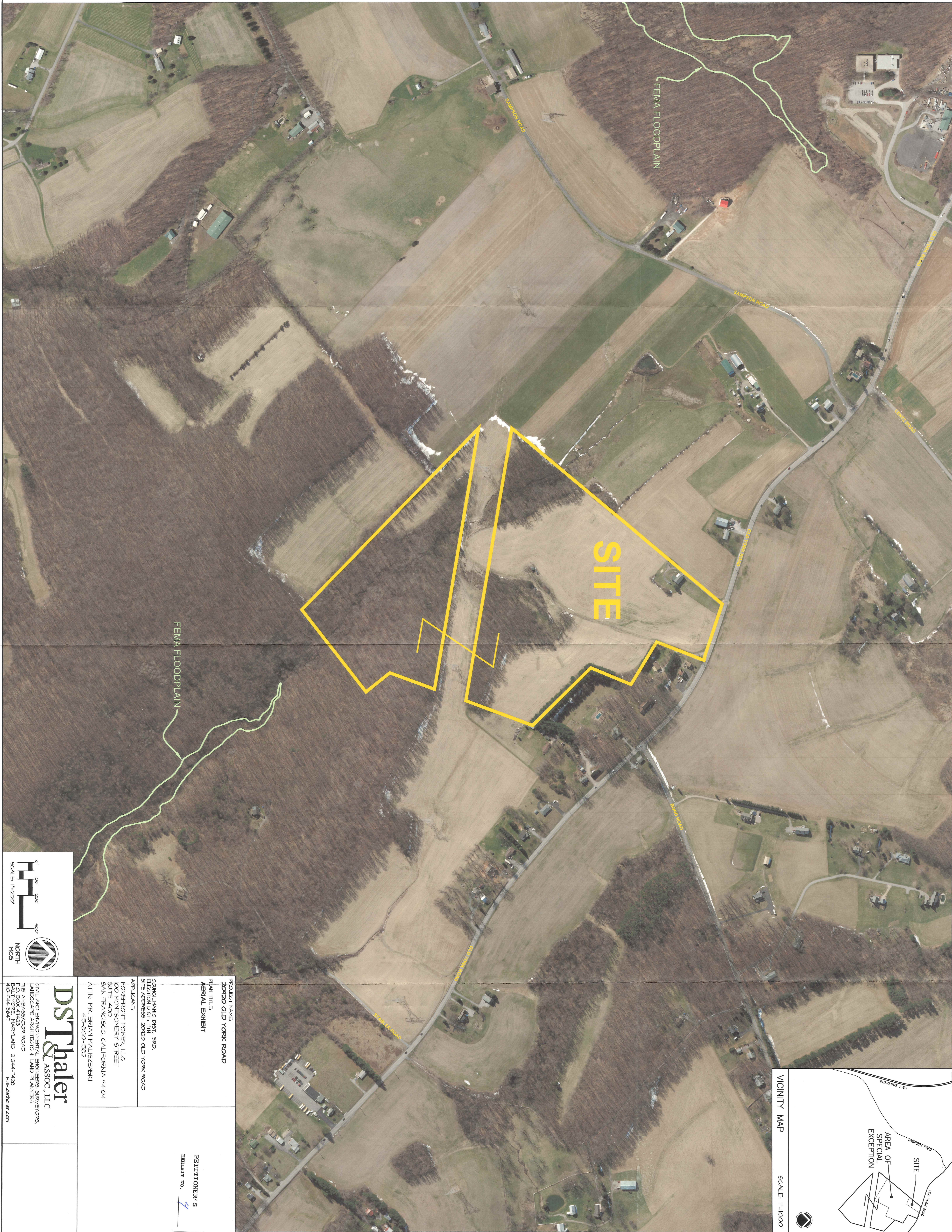
Rec From: **The Farm LLC**
For: **Zoning Hearing - case # 2019-0057-X**

20920

DISTRIBUTION

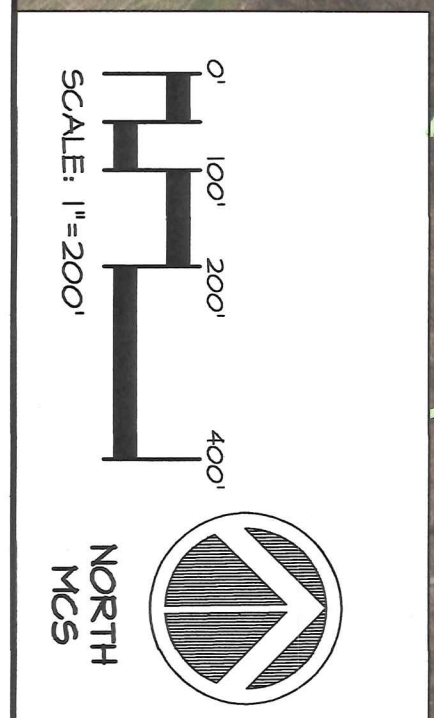
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

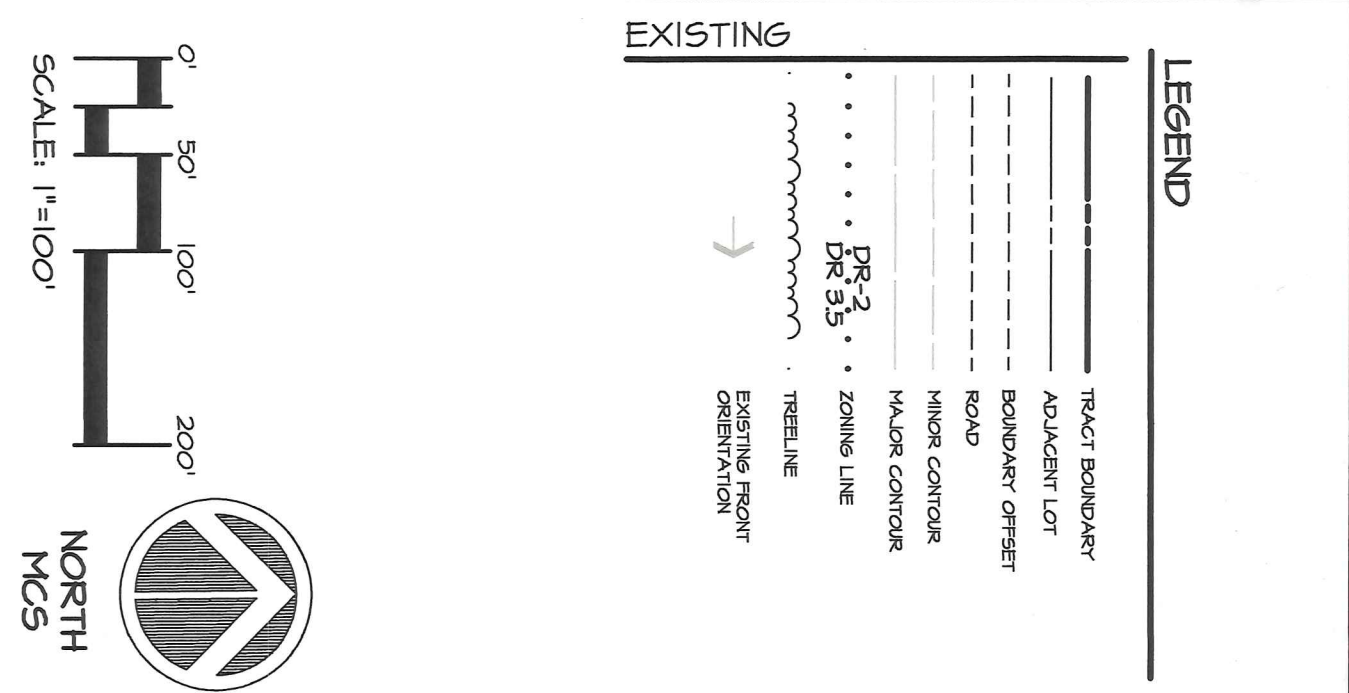


VICINITY MAP
SCALE: 1"=1000'

AERIAL EXHIBIT
20920 OLD YORK ROAD



PROJECT NAME: 20920 OLD YORK ROAD	
PLAN TITLE: AERIAL EXHIBIT	
PETITIONER'S EXHIBIT NO. 4	
COUNCILMANIC DIST., 3RD, ELECTION DIST., 7TH SITE ADDRESS, 20920 OLD YORK ROAD	
APPLICANT: FOREFRONT POWER, LLC 100 MONTGOMERY STREET SUITE 1400 SAN FRANCISCO, CALIFORNIA 94104 ATTN: MR. BRIAN NALISZEVSKI 415-500-1582	
DATE: 11/20/2019 SCALE: 1"=200' PROJ. NO.: 04354 SHEET 1 OF 1	



PROJECT NAME:
20920 OLD YORK ROAD

PLAN TITLE:
SCHEMATIC LANDSCAPE EXHIBIT

LEGEND

TRACT BOUNDARY
ADJACENT LOT
BOUNDARY OFFSET
ROAD
MAJOR CONTOUR
ZONE LINE
EXISTING RIGHT OF WAY
EXISTING FENCE

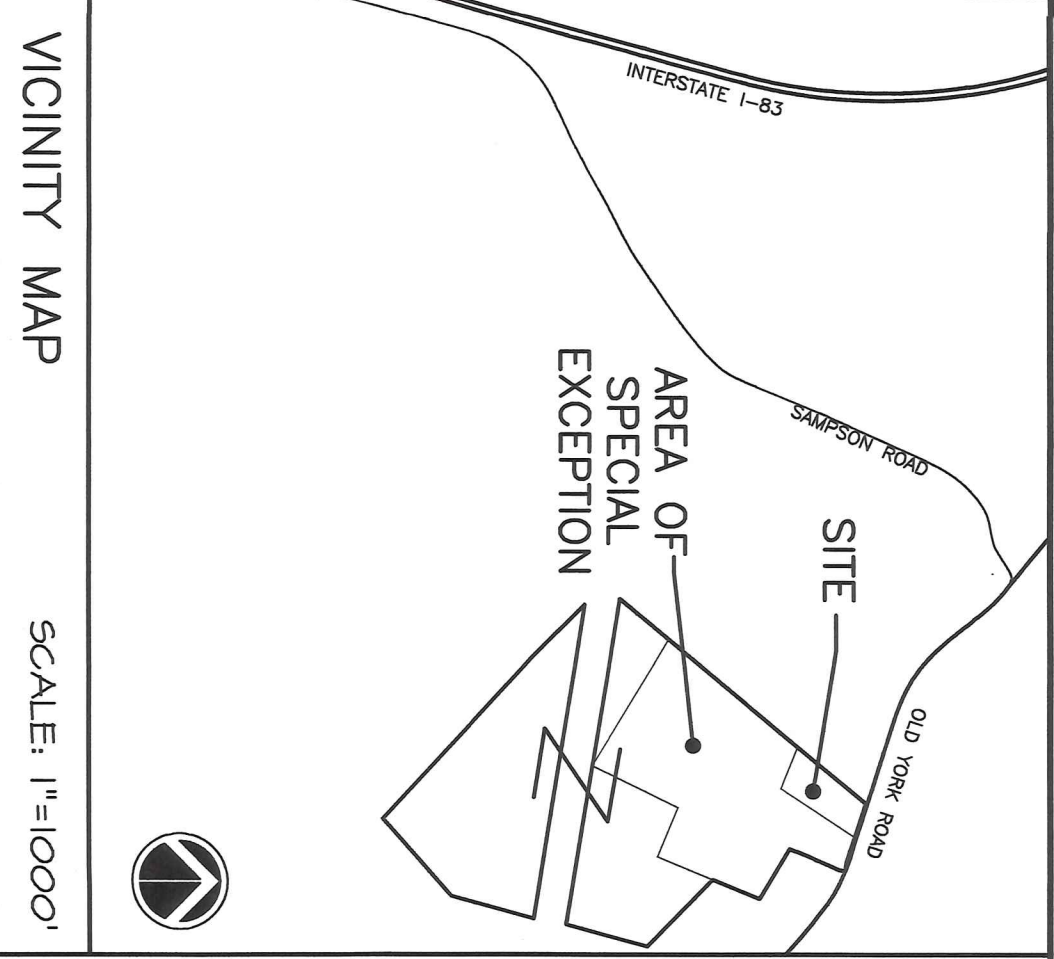
COMPLICANT DIST. 3RD.
ELECTION DIST. 7TH
SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT:
FOREFRONT POWER, LLC
1000 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104

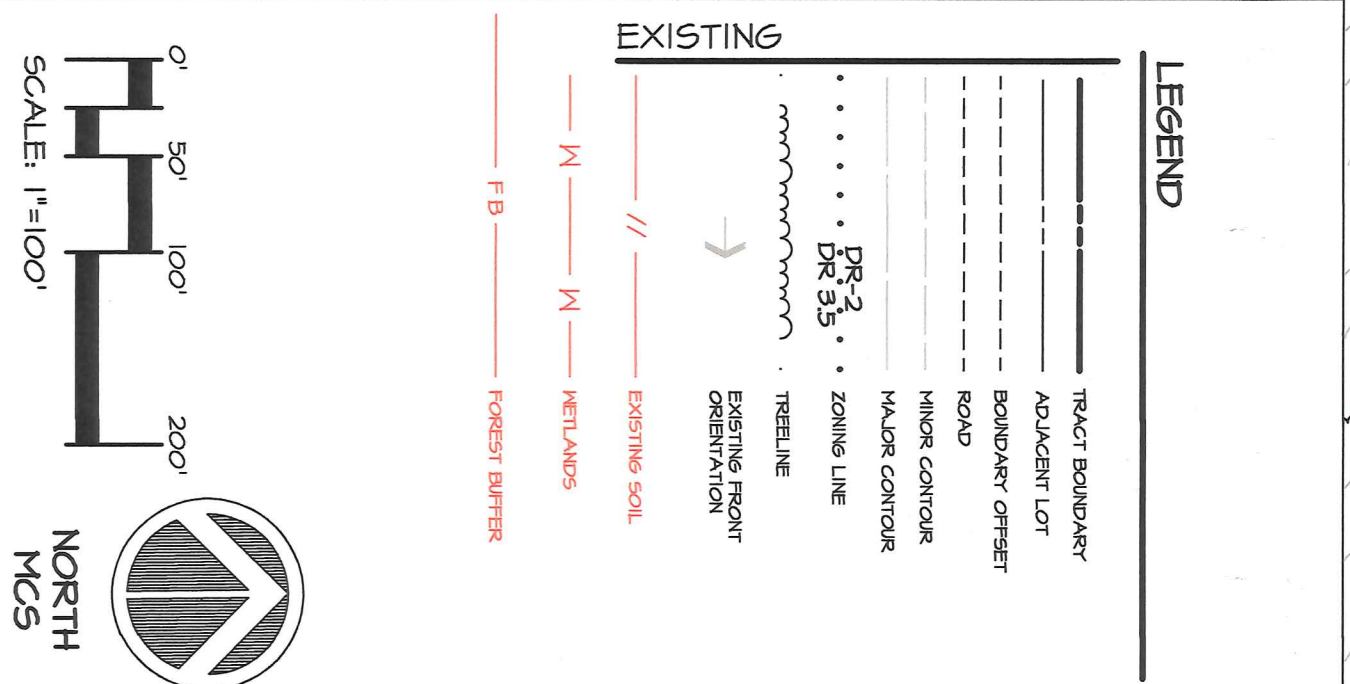
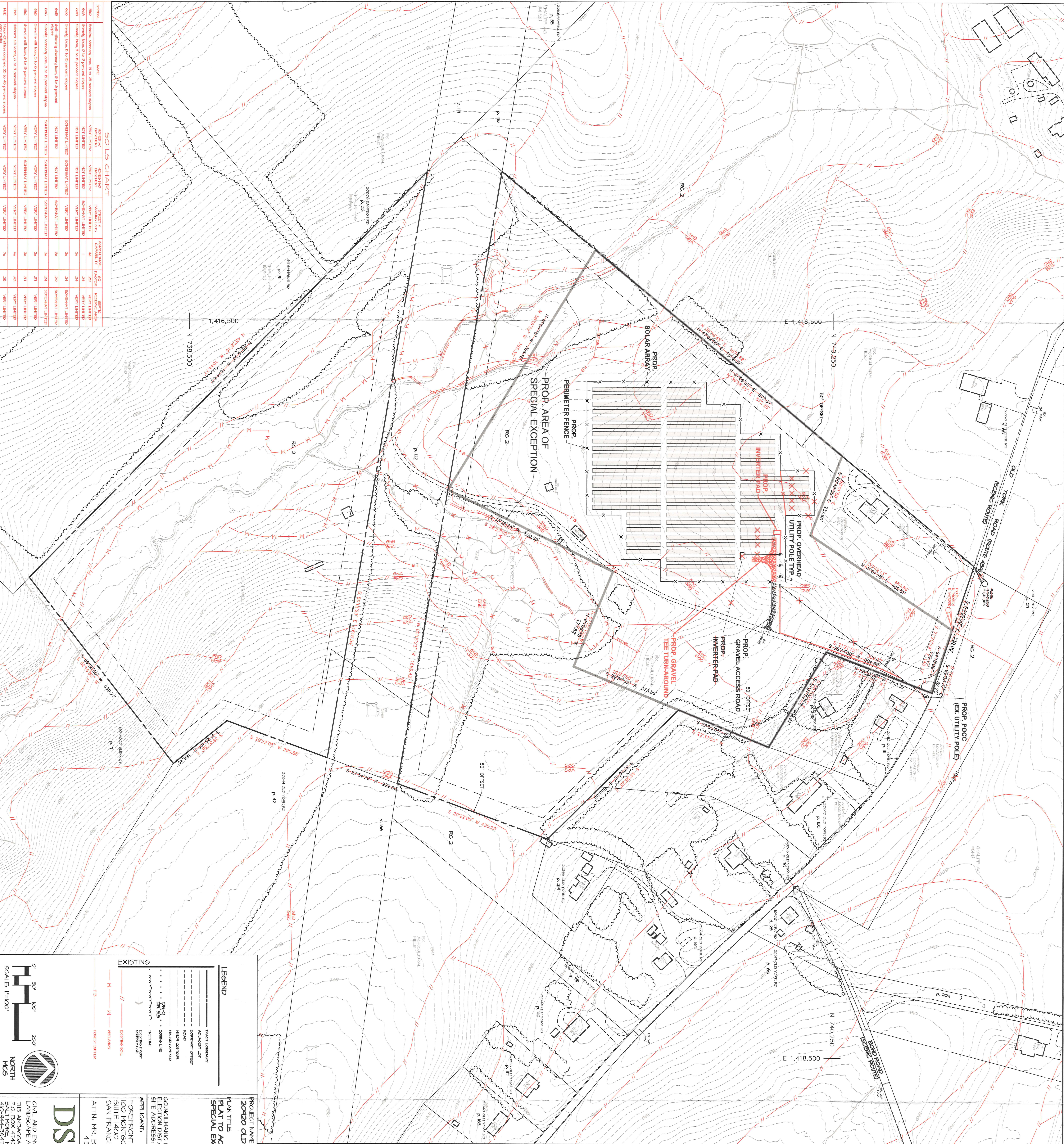
ATTN: MR. BRIAN NALISZEWSKI
415-800-1582

PETITIONER'S
EXHIBIT NO. 2

DATE: 11/20/2018
SCALE: 1"=100'
C.D. 2
PROJ. NO. 04354
SHEET 1 OF 1



SCHEMATIC LANDSCAPE EXHIBIT 20920 OLD YORK ROAD



PROJECT NAME: 20920 OLD YORK ROAD

PLAN TITLE: PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION

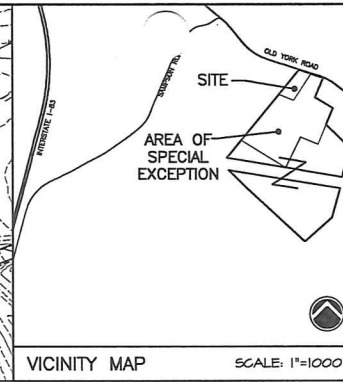
CONCILIARY DIST. AND ELECTION DIST.: THH

SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT: FOREFRONT POWER, LLC
100 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104
ATTN: MR. BRIAN VALISZEWSKI
415-800-1562

DATE: 07/27/2016
SCALE: 1"=100'
PROJECT NO.: 04354
SHEET 1 OF 1

GENERAL NOTES									
1. Owner: The Farm LLC 1000 Shore Road PO Box 100 San Francisco, CA 94104									
2. Property Reference: PARCEL: TAX ACCOUNT # 0708000050 T/I 2007 25246/662 (463)									
3. Site Area: 53.4 AC. (Net) (Area of Special Exception: 18.1 AC.)									
4. Zoning: RC-2									
5. Proposed: Provided: O									
6. Existing Use is Agricultural & Residential									
7. The site is not located within the Chesapeake Bay Critical Area.									
8. The site is located beyond the Urban Rural Demarcation Line (URDL).									
9. There were no commercial permits or active zoning violations found on the site.									
10. No signage is proposed.									
11. Basic Services: N/A - Site is beyond the MCD.									
12. The proposed solar facility will not be subject to RC26 §64-102.									
13. The proposed solar facility will not exceed the maximum permitted number of facilities within the site's boundaries. If approved, the solar facility shall remain in place for the life of the solar facility. If the solar facility is removed, the site shall be restored to its original condition.									
14. Lighting shall be limited to that which is required for security purposes only and will be shielded to prevent light spillage onto neighboring properties.									
15. No batteries or outdoor maintenance units may generate excessive noise may occur on-site between the hours of 6 PM through 6 AM.									
16. No outdoor lighting shall be installed on-site.									
17. Methods north of powerlines have been field identified. Wetlands south of powerlines are established.									
18. There are riparian zones within 100' for areas adjacent to and within 500' feet of creeks or other bodies of water and riparian greater than 200' for all other areas on site.									
19. There are no known rare species, threatened species or endangered species habitat, historical or archaeological areas on site.									
20. Stormwater management to be in compliance with H&E Design evidence for Solar Panels.									
21. There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.									
ADJACENT OWNERS (WITHIN VICINITY OF SITE)									
Parcel #	Owner/Company	Address	City	State	Zip Code	Acres	Dist. 1	Dist. 2	Land Use
27	John E. & Susan L. Lee	11111 E. 111th Rd.	Princeton	MD	21150-2157	0.02021425	0.0001	0.0001	Agriculture
111	John E. & Susan L. Lee	11111 E. 111th Rd.	Princeton	MD	21150-2157	0.02021425	0.0001	0.0001	Agriculture
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PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD

I. Owner: The Farm LLC 1600 Shore Road Baltimore, MD 21220	Applicant: ForeFront Power, LLC 100 Montgomery Street Suite 1000 San Francisco, CA 94104 ATTN: Mr. Brian Maliszewski 415.800.1582	Plan Prepared by: D.S. Thaler & Assoc., LLC 7115 Ambassador Road P.O. Box 47428 Baltimore, MD 21244 ATTN: Brian Childress 410-444-3647
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PARCEL	TAX ACCOUNT #	TAX MAP/GRID	HELD SINCE	DEED	ADC MAP
61	0108001030	7/11	2007	25246/662	5K(4-6), 4(A5)

Boundary: Dead Plot

Zoning: Baltimore County 2016 Zoning Map,
615 Use.C01C2

Floodplain: There is no Floodplain on site
(per FEMA Panel 55 of 560, Map #2400100055F)

3. Site Area: 52.4 Acs (Net)
52.4 Acs (Gross)
(Area of Special Exception: 19.9 Acs.)

4. Zoning: RC-2

5. Parking:
Required: 0
Provided: 0

6. Existing Use is Agricultural & Residential,
Site History: N/A (per Baltimore County My Neighborhood Map)

7. The site is not located within the Chesapeake Bay Critical Area.

8. The site is located beyond the Urban Rural Demonstration Line (URDL).

9. There were no commercial permits or active zoning violations found on file with Baltimore County.

10. No signage is proposed.

11. Basic Services: N/A - subject to the URDL

12. The proposed solar facility will be subject to EGCR §4P-102.

13. The proposed solar facility will not exceed the maximum permitted number of facilities allowed in its respective coastal/estuarine district. If approved, Petitioners must submit to the Board at the time of building permit application the final flood location and area of the facility by coordinate dots.

14. Lighting should be limited to that which is required for security purposes only and will be site specific as to how to have minimal spillage onto neighboring properties.

15. Signage shall be limited to that which is necessary for safety and security purposes.

16. No deliveries or outdoor maintenance which may generate excessive noise may occur on-site between the hours of 8 PM through 6 AM.

17. Wetlands north of powerlines have been field located. Wetlands south of powerlines are estimated.

18. There are no slopes greater than 10% for areas adjacent to and within 500 feet of streams, wetlands or other bodies of water and slopes greater than 25% for all other areas on site.

19. There are no known rare species, threatened species or endangered species habitat, historical or archeological areas on site.

20. Stormwater management to be in compliance with MDE Design Guidance for Solar Plants.

21. There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.

Panel	Name/Company	Address	City	State	Zip Code	Ac/Ch	Prod #	Land Use
24	Kahn, Ericson & Kwan Lee	7141 Little Rock	Portland	ME	04103-0970	970501425	73374	Agricultural
25		1021 Oak Street	Portland	ME	04103-0180		73374	Residential
111	Dale J. Moore Shells	2102 Oak Street	Portland	ME	04103-0180		73374	Residential
26	Shawn M. & Barbara D. Kuehn	2901 Oak Street	Portland	ME	04103-0180	169990922	73461	Residential
135	John P. & Janice R. Kuehn	2901 Oak Street	Portland	ME	04103-0180	169990922	73461	Residential
136	Peiper P. & Deborah W.	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
137	Kimberly Lee & Hazel Lee	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
138	William J. & Mary Ann	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
139	Gillian Lee & Emily A.	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
140		2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
141	Russell B. & Ann M. Reiser	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
142	William J. & Mary Ann	2901 Oak Street	Portland	ME	04103-0180	730030376	73461	Residential
143	Robert J. Schuler, Jr.	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
144		3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
145	Robert J. Schuler, Jr.	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
146	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
147	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
148	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
149	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
150	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
151	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
152	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
153	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
154	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
155	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
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158	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater	ME	02180	971302130	73551	Agricultural
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174	Shawn J. Schuler	3008 Rock Fwy Co	Saltwater					

SOILS CHART							
PROBLEM	WATER	MOVES UP TO SURFACE	MOVES AND STAYS IN ROOT ZONE	STRETCH & FLOODS	AGRICULTURAL CAPABILITY	FOR PASTURE	WORTH REPAIRING
BND	Drainage channeling, 10% to 25 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	4a	20	VERY LIMITED
GBd	Slaking, 10% to 30 to 3 percent slopes	NOT LIMITED	NOT LIMITED	SOMEWHAT LIMITED	1	24	VERY LIMITED
GBd	Slaking, 10% to 30 to 5 percent slopes	NOT LIMITED	NOT LIMITED	VERY LIMITED	2a	24	VERY LIMITED
GBd	Slaking, 10% to 30 to 15 percent slopes	SOMEWHAT LIMITED	SOMEWHAT LIMITED	VERY LIMITED	2a	24	SOMEWHAT LIMITED
GBd	Self-draining channeling, 10% to 5 percent slopes	NOT LIMITED	NOT LIMITED	SOMEWHAT LIMITED	2a	20	SOMEWHAT LIMITED
GBd	Slaking channeling, 10% to 30 percent slopes	SOMEWHAT LIMITED	SOMEWHAT LIMITED	SOMEWHAT LIMITED	2a	24	SOMEWHAT LIMITED
GBd	Slaking, 10% to 30 to 5 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	2a	21	VERY LIMITED
GBd	Slaking, 10% to 30 to 15 percent slopes	VERY LIMITED	SOMEWHAT LIMITED	VERY LIMITED	2a	21	VERY LIMITED
GBd	Slaking, 10% to 30 to 5 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	4a	20	VERY LIMITED
GBd	Slaking, 10% to 30 to 15 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	7a	20	VERY LIMITED

Diagram illustrating the relationship between existing and proposed boundaries:

- TRACT BOUNDARY
- ADJACENT LOT
- BOUNDARY OF ROAD
- MINOR CONTOUR
- MAJOR CONTOUR
- ZONING LINE (DR-2, DR 3.5)
- TREELINE
- EXISTING PAVED ORIENTATION
- EXISTING SOIL
- WETLANDS
- PROPOSED BOUNDARY

PROJECT NAME:
20920 OLD YORK ROAD

PLAN TITLE:
PLAN TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION

COUNCILMANIC DIST.: 3RD.
ELECTION DIST.: 1TH
SITE ADDRESS: 20920 OLD YORK ROAD

AFFILIANT:

FOREFRONT POWER, LLC
100 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104

ATTN: MR. BRIAN MALISZEWSKI
415-800-1562

1. To grant Special Exception relief for a solar facility pursuant to BCZR Section 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

DSThaler
& ASSOC., LLC

CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS
LANDSCAPE ARCHITECTS & LAND PLANNERS

7115 AMBASSADOR ROAD
P.O. BOX 41428
BALTIMORE, MARYLAND 21244-7428
410-944-3647 www.dsthaler.com

DATE: 2/13/2020
SCALE: 1"=100'
C.I.: 2'
PROJ. NO.: 04354
SHEET 1 OF 1

IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 19-057-X
*

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals (“Board”) as an appeal of both the Opinion and Order of Administrative Law Judge (“ALJ”) John E. Beverungen, dated November 27, 2018 and an Order Denying Protestants’ Motion for Reconsideration (also entered by ALJ Beverungen), dated January 8, 2019. Collectively, these decisions by the ALJ granted, with restrictions, a Petition for Special Exception for a proposed solar facility located at 20920 Old York Road. The Petition was filed by The Farm, LLC (Property Owner) and Forefront Power, LLC, Lessee.¹ Forefront is an energy company which, among other activities, constructs and operates solar facilities. An appeal of ALJ Beverugen’s Opinion and Orders was filed by Sparks Glencoe Community Planning Council Inc., Lynne Jones, Lisa Arthur, Emma Arthur and Kathleen Pieper (collectively, the “Protestants”). After some delay, the matter came in before the Board for public hearing. At that requisite public hearing the Petitioner/Property Owner was represented by Lawrence E. Schmidt, Esquire and the Protestants were not represented by counsel.

¹ Although the Petition was filed by Forefront Power, a national energy company, the lease between that entity and the Property Owner was conveyed to FFP MD Community Solar, LLC. This LLC is a business entity created by Forefront Power to develop this specific property/project. The lessees shall be referred to herein simply as “Forefront”.

Prior to the Board's hearing, the parties advised the Board that they had reached a settlement as to the issues presented. The terms of the settlement reflected an agreement by the parties that the relief requested should be granted, and that certain conditions be included in the Board's order.² Further, the parties requested, and the Board permitted, that the relevant factual evidence related to this case be presented via a proffer by Mr. Schmidt. A brief summary of those proffered facts is as follows:

FACTUAL BACKGROUND AND ANALYSIS

The subject property is a 52.4-acre tract of land located in a rural area of northern Baltimore County. The property is zoned RC 2. As originally proposed at the time that the Petition was considered by the ALJ, 19.9 acres of the subject property were proposed to encompass the area of the special exception and the proposed solar panel field was to occupy approximately six acres. However, pursuant to the settlement of the parties, the area of the special exception has been decreased to approximately 16.2 acres, although the Settlement Agreement (in order to provide flexibility as the project moves into the permitting phase) provides that the area of the special exception cannot exceed 17 acres. The area occupied by the solar panel field has likely wise been reduced. The details of the proposal, as revised, are shown on the attached site plan, attached hereto as Exhibit B. Additionally, additional and enhanced landscaping has been provided to further buffer and visually screen the proposal from adjacent properties and public roads.

The Board has entertained numerous appeals in the recent years over proposed solar facilities, particularly those facilities proposed in the northern rural areas of Baltimore County. As with the facilities proposed in those cases, the proposal here is for a solar facility developed pursuant to the State of Maryland's community solar program. BCZR Article 4F (adopted by the

² A copy of the settlement agreement is attached hereto as Exhibit A.

County Council via the enactment of Bill 37-17) regulates solar facilities in Baltimore County. BCZR Sec. 4F-102 states that solar facilities are permitted by special exception in the RC 2 zone. Additionally, BCZR Sec. 4F-104 sets forth a number of "requirements" for solar facilities. These include that such facilities cannot be on land encumbered by preservation or agricultural easement, that solar facilities cannot be located within a historic district or on land encumbered by certain environmental easements and that a landscape buffer and security fencing be provided. Additionally, solar facilities must be set back a minimum of fifty (50) feet from the tract boundary, cannot exceed twenty (20) feet in height and shall be designed to reduce glare/reflection onto adjacent properties and roads. The proffered evidence presented was that the proposed facility meets or exceeds all of these requirements as stated in BCZR Sec. 4F-104.

In addition to the requirements promulgated through Bill 37-17, the proposed special exception (as is required of all special exceptions) must satisfy the criteria in BCZR Sec. 502.1. Again, the proffered evidence was that this standard is satisfied and that the special exception proposed in this matter will not cause any detrimental impacts worse here than elsewhere in the zone. (See *Schultz v. Pritts*, 291 Md. 1 (1981))

As noted hereinabove, the parties hereto reached a settlement of their differences and consummated a settlement agreement. Under the Agreement, Forefront agrees to the following:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
- e. The area of the special exception shall be no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
- f. There shall be no barbed wire used to fence/secure the area occupied by the

- solar panels;
- g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

Insofar as the Protestants, they have agreed to not opposed the special exception and not challenge or appeal any approval thereof.

Upon due consideration of the proffered testimony and evidence presented, the Board is persuaded to grant the requested relief. The Board finds that the request meets the definitional and other requirements in BCZR 4F and the special exception test set forth in BCZR 502.1 Further, the Board finds the proposed restrictions/conditions as agreed to by the parties to be reasonable and appropriate. Thus, they shall be incorporated in the Board's order.

ORDER

THEREFORE, IT IS this 28th day of September, 2021, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Special Exception to permit a solar facility be and is hereby GRANTED; subject to the following restrictions and conditions:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
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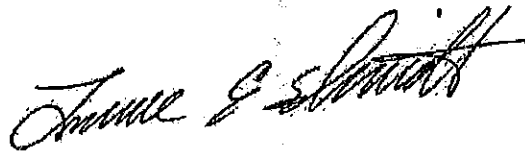
**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair

see following page
Sharonne R. Bonardi

see following page
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

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**BOARD OF APPEALS
OF BALTIMORE COUNTY**

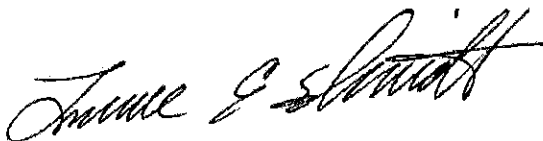
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**BOARD OF APPEALS
OF BALTIMORE COUNTY**

see previous page
Andrew M. Belt, Panel Chair

see previous page
Sharonne R. Bonardi

Fred M Lauer
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:

Lawrence E. Schmidt

Lawrence E. Schmidt, Attorney for Forefront

**SETTLEMENT
AGREEMENT**

THIS SETTLEMENT AGREEMENT (referred to hereinafter as the "Agreement") made this 9 day of August, 2021 by and between **FFP MD Community Solar, LLC**, a Delaware limited liability company ("**Forefront**") and **Sparks Glencoe Community Planning Council, Lisa Arthur, Emma Arthur, Lynne Jones, and Kathleen Pieper** (collectively "**Protestants**");

RECITALS:

WHEREAS, Forefront is the Lessee of certain real property located in the Freeland community of northern Baltimore County, known as 20920 Old York Road (the "**Property**"); and,

WHEREAS, Forefront is proposing the development of a solar facility on the Property ("**Solar Facility Project**"); and

WHEREAS, the Baltimore County Administrative Law Judge granted special exception approval of the Solar Facility Project on November 27, 2018, and issued an Order dated January 8, 2019 which denied Protestants' Motion to Reconsider (hereinafter, collectively referred to as the "**ALJ Approval Order**"); and

WHEREAS, the Protestants filed an appeal of the ALJ Approval Order to the Baltimore County Board of Appeals on February 5, 2019 ("**Protestants' Appeal**"); and

WHEREAS, the Protestants' Appeal is pending litigation at the Baltimore County Board of Appeals ("**BOA Case**"); and

WHEREAS, the parties have negotiated to resolve the outstanding issues between them and enter into this Agreement in order to fully and finally resolve the issues between them as it relates to the Solar Facility Project.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.
2. Forefront agrees to the following:
 - a. To develop the Solar Facility Project on the Property as shown on the site plan in **Exhibit A**;

- b. To enhance the landscape buffer previously proposed along the viewshed onto the Property from Old York Road as shown on **Exhibit A**;
 - c. To provide for a two-year inspection of the proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
 - d. To reduce the acreage of the special exception to no greater than seventeen (17) acres and to reduce the total number of proposed solar panels, as shown on the attached site plan in **Exhibit A**;
 - e. To prohibit the use of any barbed wire on the proposed chain link fence;
 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
- a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): Michael Smith

Name: Michael Smith

Title: President

Date: August 8, 2021

WITNESS:

SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL

Signature(By): _____

Name: _____

Title: _____

Date: _____

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

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WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): _____

Name: _____

Title: _____

Date: _____

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): *Lynne Jones*

Name: LYNNE JONES

Title: PRESIDENT

Date: 8-2-2021

WITNESS:

WITNESS:

WITNESS:

WITNESS:

LISA ARTHUR

Signature: *Lisa Arthur*
Date: 8/3/2021

EMMA ARTHUR

Signature: *Emma Arthur*
Date: 8/3/21

LYNNE JONES

Signature: _____
Date: _____

KATHLEEN PIEPER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

WITNESS:

WITNESS:

WITNESS:

WITNESS:

[Signature]

LISA ARTHUR

Signature: _____

Date: _____

EMMA ARTHUR

Signature: _____

Date: _____

LYNNE JONES

Signature: *[Signature]*

Date: 8.2.21

KATHLEEN PIEPER

Signature: *[Signature]*

Date: 8-2-2021

Approved as to content and form:

[Signature]

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

Site Plan (attached)
Referred to herein as Exhibit A



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

September 28, 2021

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: *In the Matter of: The Farm, LLC – Legal Owner*
Forefront Power, LLC – Lessee
Case No.: 19-057-X

Dear Mr. Schmidt:

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,

A handwritten signature in cursive script that reads "Sunny Cannington Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: Dennis Danielczyk, Jr./The Farm, LLC
Brian Maliszewski/Forefront Power, LLC
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Office of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Sparks Glencoe Community Planning Council
Lisa Arthur
Emma Arthur
Lynne Jones
Kathleen Pieper

Address List

Petitioner:

Dennis Danielczyk, Jr.
The Farm, LLC
1600 Shore Road
Baltimore, MD 21220
Legal Owner

Brian Maliszewski
Forefront Power, LLC
100 Montgomery Street, Suite 725
San Francisco, CA 94104
Lessee

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

T. Andrew Brown, P.E.
DS Thaler & Assoc., LLC
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

Protestants/Appellants:

Sparks Glencoe Community
Planning Council, Inc.
Box 937
Sparks, MD 21152

Lisa Arthur
19500 Burke Road
White Hall, MD 21161

Emma Arthur
19500 Burke Road
White Hall, MD 21161

Lynne Jones
815 Stablers Church Road
Parkton, MD 21120

Kathleen Pieper
4310 Beckleystown Road
Hampstead, MD 21074

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

Withdrew Appearance 12/22/2020

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

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 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
 - a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
 4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
 5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
 6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): 
Name: Michael Smith
Title: President
Date: August 8, 2021

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): _____
Name: _____
Title: _____
Date: _____

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): _____
Name: _____
Title: _____
Date: _____

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): *Lynne Jones*
Name: LYNNE JONES
Title: PRESIDENT
Date: 8.2.2021

WITNESS:

LISA ARTHUR

Signature: Lisa Arthur
Date: 8/3/2021

WITNESS:

EMMA ARTHUR

Signature: Emma Arthur
Date: 8/3/21

WITNESS:

LYNNE JONES

Signature: _____
Date: _____

WITNESS:

KATHLEEN PIEPER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

WITNESS:

LISA ARTHUR

Signature: _____

Date: _____

WITNESS:

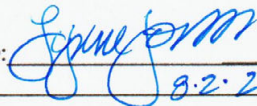
EMMA ARTHUR

Signature: _____

Date: _____

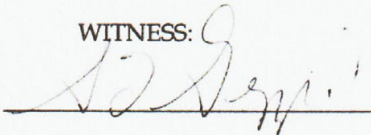
WITNESS:

LYNNE JONES

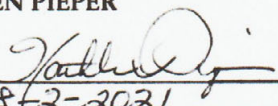
Signature: 

Date: 8.2.21

WITNESS:

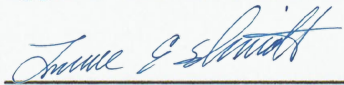


KATHLEEN PIEPER

Signature: 

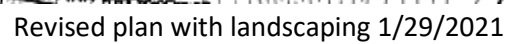
Date: 8-2-2021

Approved as to content and form:


LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

Site Plan (attached)
Referred to herein as Exhibit A



SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**

* Admitted in MD, PA, FL
** Admitted in MD, NC

ROBERT B. HAMILTON
NICOLE LAMBDIN
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
MARY G. LOKER
STEPHEN J. NOLAN

March 16, 2020



Sent via First Class Mail

Krysundra L. Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

**Re: In the matter of: The Farm, LLC – Legal Owner
Forefront Power, LLC - 20920 Old York Road
Case No. 19-057-X**

Dear Ms. Cannington:

This is in response to your letter of February 26, 2020 regarding the above matter. As you know, proceedings before the Board were previously indefinitely postponed at the request of the Petitioner. The postponement was requested because of a contemplated revision to the layout of the proposed solar facility.

Please be advised that my clients, The Farm (property owner) and Forefront Power LLC (applicant) are now desirous of moving forward with the project and hereby request that the continuance previously granted be lifted and that this matter be scheduled for hearing before the Board. I am pleased to coordinate dates with you and Mr. Mowell (attorney of the Protestants/ Appellants) if appropriate.

For your reference, I am enclosing a copy of the current site plan for this project. In order to address certain of the objections of the Protestants and for other reasons related to the capacity and function of the proposed facility, please note that the project has been "downsized" from its previous footprint. In lieu of four separate rows of solar panels, the proposal now indicates only two rows. Additionally, in order to meet Fire Department access requirements, an internal access road for emergency equipment has been relocated so that all panels are within a short distance thereof. This revised plan will be submitted to the Board at its de novo hearing and Petitioners will request that it be approved in connection with the Petition for Special Exception.

Krysundra L. Cannington

March 16, 2020

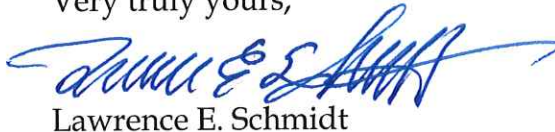
Page 2

Notwithstanding the modest downsizing of the proposal, the project is largely the same as originally submitted and approved by the ALJ. The area and location of the special exception within the property is the same. However, the "footprint" of the actual panel field is reduced in order to provide greater setbacks and buffers to adjacent properties.

As noted above, the attached site plan will be offered to the Board at its hearing as an evidentiary exhibit and Petitioners' request for approval will be of that plan. In that proceedings before the Board are de novo, I would request that the Board retain jurisdiction of this matter and not remand the matter to the ALJ. In addition to the de novo nature of this appeal, please note the at the relief requested is the same (i.e. a petition for special exception, there are no variances requested), the property and parties remain the same, the proposal is essentially the same as approved by the ALJ and that the changes reduce (and do not enlarge) the area of the facility and impacts of the project.

I appreciate and thank you for your patience with this matter. I hope that the Protestants will withdraw their opposition to this project in view of the efforts made by my clients to reduce its impact. However, I am certain that Mr. Mowell will advise of his position and I have copied him with this letter.

Very truly yours,

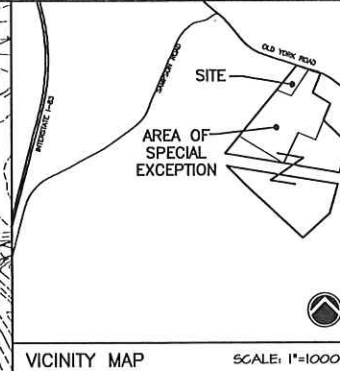
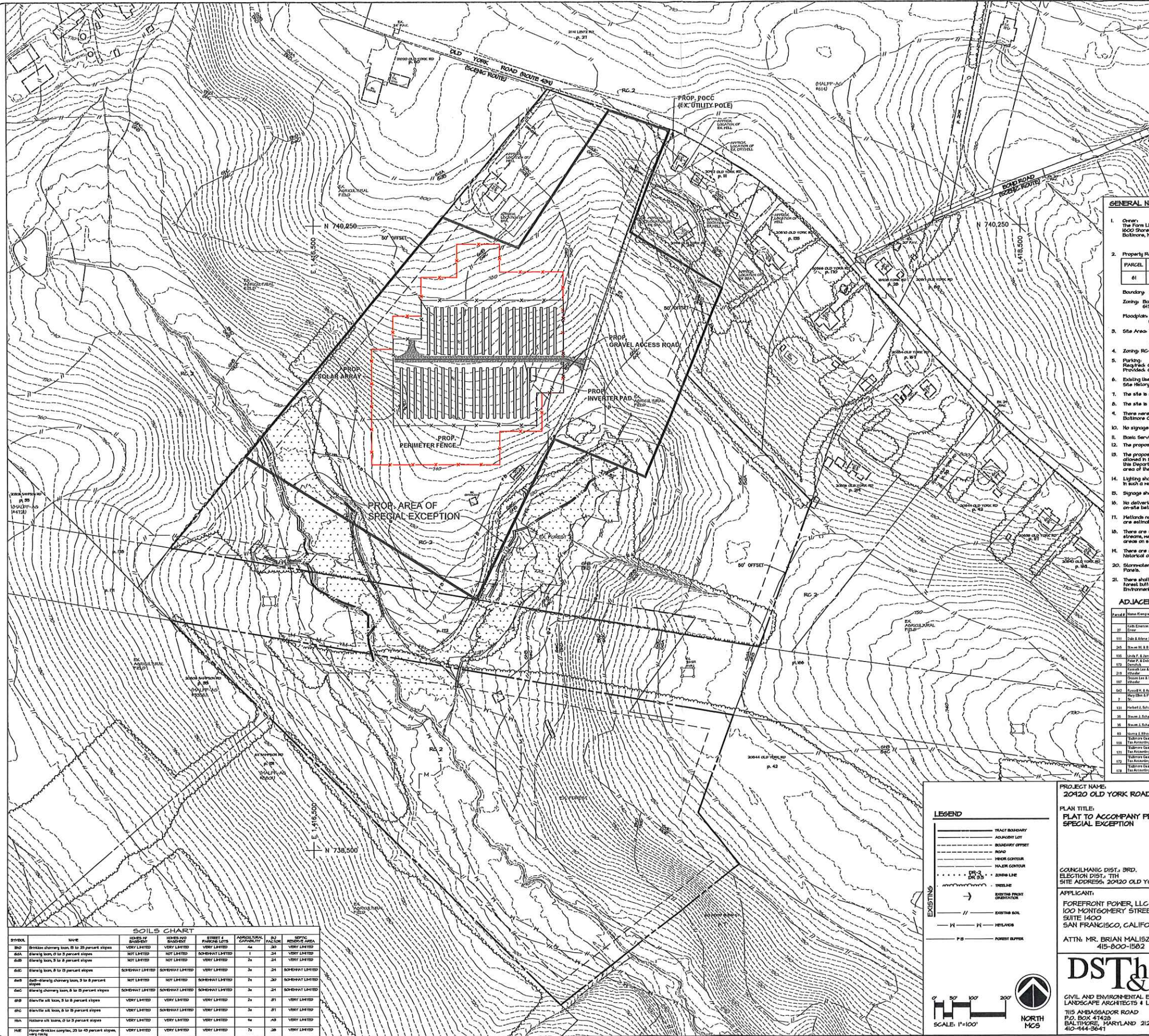


Lawrence E. Schmidt

LES/am

Enclosure

cc: H. Barnes Mowell, Esquire
Andrew Brown, D.S. Thaler
Forefront Power, LLC



GENERAL NOTES

- Owner: The Firm LLC, 1400 Shore Road, Baltimore, MD 21220. Applicant: Forefront Power, LLC, 100 Montgomery Street, Suite 1400, San Francisco, CA 94104. Plan Prepared by: D.S. Thaler & Assoc., LLC, 715 Ambassador Road, P.O. Box 41420, Baltimore, MD 21244. ATTN: Mr. Brian Holzevski, 415-800-1502.
- Property Reference: PARCEL, TAX ACCOUNT #, TAX MAP/GRID, HELD SINCE, DEED, AGC MAP.
- Boundary: Deed Plot.
- Zoning: Baltimore County 2016 Zoning Map, 615 Use/0012.
- Floodplain: There is no floodplain on site (per FEMA Panel 25 of 500, Map #2400000059).
- Site Area: 52.4 Acre (Net), 52.4 Acre (Gross), (Area of Special Exception: 15.4 Acre).
- Zoning: RC-2.
- Parking: Required, 0, Provided, 0.
- Existing Use: Agricultural & Residential, Site History: NA (per Baltimore County Historic Map).
- The site is not located within the Chesapeake Bay Critical Area.
- The site is located beyond the Urban Rural Demonstration Line (URDL).
- There were no commercial permits or active zoning violations found on file with Baltimore County.
- No storage is proposed.
- Basic Services: NA - Site is beyond the URDL.
- The proposed solar facility will be subject to BCZR §4F-102.
- The proposed solar facility will not exceed the maximum permitted number of facilities located in the respective conditions district. If approved, Petitioners shall submit to the Department at the time of building permit application the final final location and area of the facility by coordinate data.
- Lighting shall be limited to that 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 PM through 6 AM.
- Wetlands north of powerlines have been field located. Wetlands south of powerlines are estimated.
- There are slopes greater than 10% for areas adjacent to and within 500 feet of streams, wetlands or other bodies of water and slopes greater than 25% for all other areas on site.
- There are no known rare species, threatened species or endangered species habitat, historical or archaeological areas on site.
- Stormwater management to be in compliance with MDE Design Guidance for Solar Panels.
- There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.

ADJACENT OWNERS (WITHIN VICINITY OF SITE)

Parcel #	Name/Company	Address	City	State	Zip Code	Acres	Deed #	Land Use
27	Edith Emerson & Family LLC	21141 Lantz Road	Parkton	MD	21126-2129	0.00000000	00000000	Agriculture
111	Dale & Anne Shultz	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
245	Bruce W. & Barbara D. Foster	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
135	Undy P. & James A. Gorman	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
172	Paul P. & Deborah V. Gorman	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
219	John Lee & Hazel Lee	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
187	John Lee & Hazel Lee	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Residential
242	Russell M. & Anna M. Fowler	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Agriculture
7	Robert J. & Paul R. Weaver	1204 Red Fox Ct.	Baltimore	MD	21286	0.00000000	00000000	Agriculture
131	Michael J. Schuler, Jr.	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Agriculture
35	Bruce J. Schuler	20112 Old York Road	Parkton	MD	21126	0.00000000	00000000	Agriculture
36	Bruce J. Schuler	20112 Old York Road	Parkton	MD	21126	0.00000000	00000000	Agriculture
85	James J. & Jennifer	20112 Old York Road	Parkton	MD	21126-2129	0.00000000	00000000	Agriculture
155	Baltimore Gas & Electric Co. Fee Anticipating Unit	PO Box 1475	Baltimore	MD	21205-1475	0.00000000	00000000	Industrial
171	Baltimore Gas & Electric Co. Fee Anticipating Unit	PO Box 1475	Baltimore	MD	21205-1475	0.00000000	00000000	Industrial
172	Baltimore Gas & Electric Co. Fee Anticipating Unit	PO Box 1475	Baltimore	MD	21205-1475	0.00000000	00000000	Industrial
173	Baltimore Gas & Electric Co. Fee Anticipating Unit	PO Box 1475	Baltimore	MD	21205-1475	0.00000000	00000000	Industrial

LEGEND

TRACT BOUNDARY
ADJACENT LOT
BOUNDARY OFFSET
ROAD
POWER CONDUIT
HAZARDOUS WASTE
DEED LINE
EXISTING FRONT ORIENTATION
EXISTING SOIL
EXISTING ROAD
EXISTING BUFFER

0' 50' 100' 200'

SCALE: 1"=100'

NORTH

PROJECT NAME:
20920 OLD YORK ROAD

PLAN TITLE:
PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION

COUNCILMANIC DIST.: BRD.
ELECTION DIST.: 1TH
SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT:
FOREFRONT POWER, LLC
100 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104

ATTN: MR. BRIAN HOLZEVSKI
415-800-1502

Special Exception Relief:

- To grant Special Exception relief for a solar facility pursuant to BCZR Section 4F-102 (as established by Bill 57-17) and
- For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

DSThaler
ASSOC., LLC

CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
LANDSCAPE ARCHITECTS & LAND PLANNERS

715 AMBASSADOR ROAD
P.O. BOX 41420
BALTIMORE, MARYLAND 21244-1420
410-444-3641
www.dsthaler.com

DATE: 2/19/2020
SCALE: 1"=100'
C.I.: 2'
PROJ. NO.: 04354
SHEET 1 OF 1

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: The Farm, LLC – Legal Owner
 Forefront Power, LLC – Lessee

19-057-X

DATE: July 8, 2021

BOARD/PANEL: Andrew M. Belt, Panel Chairman
 Fred M. Lauer
 Sharonne R. Bonardi

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate a Petition for Special Exception pursuant to BCZR Sections 502.1 and 4F-102 to operate a solar facility in the RC-2 zone.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board convened for a hearing on the request to operate a solar facility in the RC-2 zone, then immediately convened for Public Deliberation.
- Prior to the hearing the parties entered into discussions to address the Protestants concerns, and the Petitioner agreed to certain conditions to satisfy those concerns.
- The Board heard proffer from Petitioners' experts demonstrating the solar facility meets the statutory requirements of BCZR Sections 502.1 and 4F-102. This testimony was unrebutted.
- The Board heard testimony from Lynne Jones on behalf of the Protestants evidencing they have reached an agreement with the Petitioners regarding the solar facility.
- The Board noted that the requested solar facility will generate under 2 megawatts of electricity, meets setback requirements, no environmental features were identified, there will be no fire, noise or smoke generated, no glare will result, there will be no impact on schools, and no impact to sewer service. There also was testimony that the statutory requirement of 10 solar facilities per district has not been exceeded.
- The Board found that the request meets the special exception requirements contained in BCZR Section 502.1 and the requirements for a solar facility contained in Section 4F-102.
- Counsel for Petitioner will prepare and submit a proposed Order to the Board, after review and acceptance by Protestants.

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.

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.

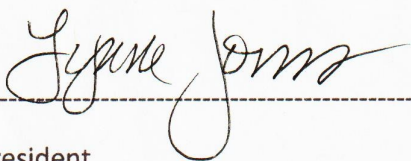
Respectfully Submitted,

_____/s
Tammy A. Zahner

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC

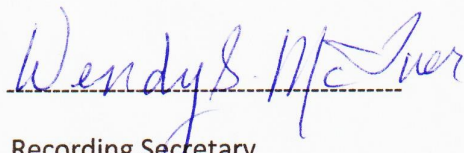
RESOLVED: That at the ANNUAL MEETING of The Sparks Glencoe Community Planning Council, Inc. held on April 15, 2020, it was decided that responsibility for review and action on all zoning and development matters for the period 2020-2021 be placed on the Board of Directors and members of the duly elected Zoning Committee.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.



President

Lynne Jones



Recording Secretary

Wendy McIver

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 known as:

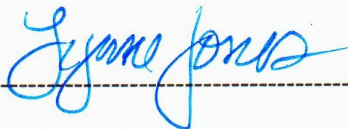
Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone, case # 2019-057-X.

The Sparks Glencoe Community Planning Council ("Sparks Glencoe" or "SGCPC") is a non-profit organization dedicated to preserving the rural character and natural resources of Northern Baltimore County, MD.

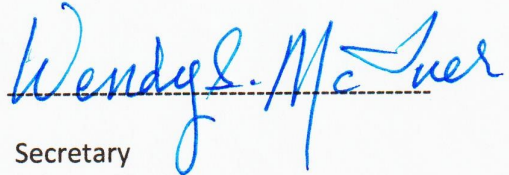
The Board of SGCPC has agreed to settle this as a theoretical matter to resolve this case by way of settlement but requires specificity regarding the number of acres utilized. The site plan alone is insufficient.

AS WITNESS OUR HANDS AND SEAL THIS 6TH DAY OF JULY 2021.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

A handwritten signature in blue ink, appearing to read "Lynn Jones", written over a horizontal dashed line.

President

A handwritten signature in blue ink, appearing to read "Wendy McIner", written over a horizontal dashed line.

Secretary

AFFIDAVIT

STATE OF MARYLAND

BALTIMORE COUNTY, SS:

TO WIT:

I hearby swear upon perjury that I, Lynne Jones, am currently a
duly elected member of the Board of Directors of The Sparks
Glencoe Community Planning Council, Inc.

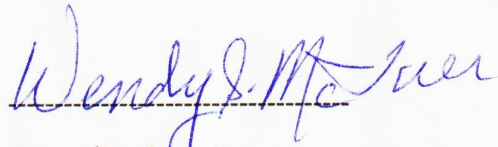
AS WITNESS OUR HANDS AND SEAL THIS 15th
DAY of April, 2020.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.



President

Lynne Jones



Recording Secretary

Wendy McIver



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 14, 2021

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: JULY 8, 2021, AT 1:00 P.M.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least **48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
June 14, 2021
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Protestants/Appellants

: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Steve Lafferty, Director/Department of Planning
C. Peter Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney
Nancy C. West, Assistant County Attorney

From: [Lawrence Schmidt](#)
To: ["Lynne Jones"](#); ["Kelsey Crane"](#); ["Brian Maliszewski"](#); ["Christian Schlesinger"](#); [Alyssa Moyers](#); [Zachary Wilkins](#); [Andrew Brown](#); [Krysundra Cannington](#)
Cc: [Peoples Counsel](#); ["Kathie Pieper"](#); ["Lisa Arthur"](#)
Subject: RE: Case #19-057-X, Old York Rd Solar Case
Date: Friday, January 22, 2021 9:26:43 AM

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms. Cannington: As you are aware, I represent Forefront Power, LLC, the Petitioner in the above case. This matter is presently pending before the Board and is scheduled for hearing dates on January 27 and February 2 and 4. You might also recall that the Protestants were previously represented by counsel (Mr. Mowell) however, he has stricken his appearance and they are now not represented. Ms. Lynne Jones, one of the Protestants is serving as spokesperson for the group. In addition to Ms. Jones, the other appellants identified in the Notice of Appeal are Lisa Arthur, Emma Arthur (who apparently resides with Lisa Arthur), The Greater Sparks Glencoe Community Planning Council, Inc. (Ms. Jones is an officer in that organization), and Kathleen Pieper. All of the appellants (except Emma Arthur, who I trust can be reached by Lisa Arthur) are copied on this email.

I am pleased to advise you that as a result of conversations between myself and Ms. Jones, we believe that we have reached a tentative settlement of this matter. The size of the proposed solar facility has been reduced from what was approved by the ALJ and there are other details of agreement.

Because the facility has been modified, we will still be required to have an evidentiary hearing before the Board to present the new plan and otherwise address the special exception requirements set forth in the law. But the hearing should consume one-half day, at the most.

In that we are still finalizing certain details of the settlement and exchanging documents, I would request that the hearings on January 27 and February 2 be cancelled and that we convene on February 4. Hopefully, that will provide the parties with sufficient time to finalize the details so that the hearing can be handled expeditiously. I have spoken to Ms. Jones and she concurs with this approach.

Thank you for your anticipated cooperation and please let me know if you have any questions and our request can be accommodated.

Larry Schmidt

Lawrence E. Schmidt | Partner

SMITH, GILDEA & SCHMIDT, LLC

600 Washington | Suite 200 | Towson, MD 21204 | (410) 821-0070

lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.



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

November 23, 2020

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
19-057-X Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: **JANUARY 27, 2021, AT 10:00 A.M. – Day 1**
FEBRUARY 2, 2021, AT 10:00 A.M. – Day 2
AND **FEBRUARY 4, 2021, AT 10:00 A.M. – Day 3**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of **exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
November 23, 2020
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Peter Gutwald, Director/Department of Planning
James R. Benjamin, Jr., County Attorney, Office of Law
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge



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 20920 Old York Road which is presently zoned RC 2
 Deed References: 25248/00682 10 Digit Tax Account # 0708001050
 Property Owner(s) Printed Name(s) The Farm, 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
 Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name- Type or Print

Signature

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / bmaliszewski@forefrontpower.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Shore Road Baltimore MD

Mailing Address City State

21220 / /

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Do Not Schedule Dates: 11/27/18 Reviewer SD

Date 11/27/18 REV. 10/4/11

By SD

ORDER RECEIVED FOR FILING

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item #0057

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

Krysundra Cannington
Administrator

Duplicate original

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

Krysundra Cannington
Administrator

Duplicate original



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

April 30, 2019

NOTICE OF POSTPONEMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
 Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
 7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 23, 2019 and has been postponed by request of counsel. This matter will be rescheduled to later dates.

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).
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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Notice of Postponement
In the matter of: The Farm, LLC
Case number: 19-057-X
April 30, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Pete Gutwald, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH

*Admitted in MD, FL, PA

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS

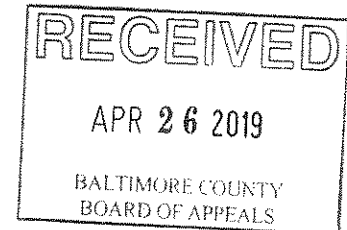
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

April 26, 2019

Sent via Hand Delivery

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Legal Owner: The Farm, LLC
Lessee: Forefront Power, LLC
Property: 20920 Old York Road
Case No. 2019-057-X



Dear Ms. Cannington,

This is in reference to the above matter currently scheduled for hearing before the Board on May 9, 2019 and May 23, 2019. This matter is for the consideration of a petition for special exception to permit a proposed solar facility. The petition was filed by my client, Forefront Power, LLC, as lessee. The property owner, The Farm, LLC, is designated as the co-petitioner. Forefront Power, LLC is an energy company and will construct and operate the proposed facility.

My client has recently advised that they are contemplating the transfer/sale of their rights under the current lease to a different entity. This entity would be another entity that is experienced in the development and operation of solar facilities. Under the circumstances, I am hereby requesting a postponement of the May 9th and May 23rd hearing dates and request that the matter be reset after August 1, 2019. Although the anticipated project would largely remain the same, the parties involved would like to have the transaction finalized before a hearing. I also think it appropriate that the ultimate developer and operator of the facility participate at the Board's hearings so as to explain the operational details. Insofar as my calendar for a re-scheduling, I am available August except for the following dates: August 2, 14, 15 and 16.

Ms. Krysundra L. Cannington, Administrator

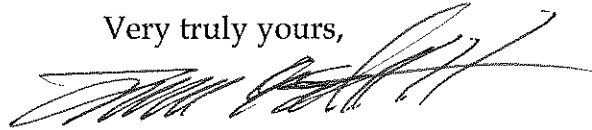
April 26, 2019

Page 2

This postponement will not be prejudicial to any parties. The petition for special exception was granted below and thus the delay occasioned by this request does not prejudice the opponents to the petition. Actually, it is arguably beneficial to them as the project, if approved, will not be constructed until later than initially anticipated. I have copied their counsel with this correspondence. I appreciate the Board's attention to this request and please do not hesitate to contact me should you have any questions.

Thank you for your courtesy.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Lawrence E. Schmidt', with a long, sweeping horizontal stroke extending to the right.

Lawrence E. Schmidt

LES/am

cc: H. Barnes Mowell, Esquire



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

March 19, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
 Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
 7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 16, 2019. Day 2 of this matter has been changed due to a scheduling conflict. This matter is now

ASSIGNED FOR: **MAY 9, 2019, AT 10:00 A.M. – Day 1**
 MAY 23, 2019, AT 10:00 A.M. – Day 2

LOCATION: Hearing Room #2, Second Floor, Suite 206
 Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

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- 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.

Amended Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 19, 2019
Page 2

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

**Krysundra "Sunny" Cannington
Administrator**

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

March 5, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-057-X

The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR:

MAY 9, 2019, AT 10:00 A.M. – Day 1
MAY 16, 2019, AT 10:00 A.M. – Day 2

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

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- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 5, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

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Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20920 Old York Road) *
7th Election District * OFFICE OF
3rd Council District *
The Farm, LLC * ADMINISTRATIVE HEARINGS
Legal Owner *
Forefront Power, LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * **Case No. 2019-0057-X**

* * * * *

ORDER ON PROTESTANTS'
MOTION FOR RECONSIDERATION

Protestants have filed a motion for reconsideration wherein they raise two (2) arguments:
(1) Lessee Petitioner's charter was forfeited on the date of the zoning hearing, and as such the petition should be dismissed; and (2) the size of the special exception area is too large. These arguments are addressed below.

Entity Status

The Lessee in the above-case, which would operate the solar facility, is Forefront Power, LLC. Based on the exhibits attached to Protestants' motion, its entity status was forfeited on November 19, 2018, and the hearing in this case was the next day, November 20, 2018.

Petitioner initially contends (but does not provide any case or statutory authority for the proposition) the forfeiture statute is only applicable in a judicial proceeding. In similar settings (i.e., standing, doctrine of res judicata) Maryland cases have indicated that such rules apply to both judicial and quasi-judicial proceedings. As such, I do not believe this argument has merit.

But Petitioners also note that the legal owner of the subject property (The Farm, LLC) was also a petitioner in the zoning case, and that entity apparently was and is in good standing. As such, I agree with Petitioners that whether or not the Lessee's charter was forfeited is immaterial

ORDER RECEIVED FOR FILING

Date 1-8-19

By lgw

in the circumstances of this case; two (2) petitioners signed the zoning petitions even though the legal owner could have filed and prosecuted the case on its own.

Size of Special Exception Area

Protestants contend the size of the special exception in this case is excessive and in support of that argument they submit a chart (attached to the Motion as Exhibit 2) comparing the sizes of special exception areas in recent solar facility cases. As Petitioners note, this evidence was not presented at the hearing and cannot be considered in connection with the motion.

But more to the point, the size of the special exception area was considered at the hearing and Petitioners summarize the testimony of their witness (Kelsey Crane) that addressed this issue. As such, I do not believe the motion presents any "new or different factual situation" which would justify reaching a different conclusion.

WHEREFORE, IT IS ORDERED this 8th day of **January, 2019**, by this Administrative Law Judge, that the Protestants' Motion for Reconsideration, be and is hereby DENIED.

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/dlw

ORDER RECEIVED FOR FILING

Date 1-8-19

By KW



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 8, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

H. Barnes Mowell, Esq.
H. Barnes Mowell, P.A.
16925 York Road
Monkton, MD 21111

RE: MOTION FOR RECONSIDERATION
Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Counsel:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a large, stylized flourish or "O" shape.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20920 Old York Road)
7th Election District * OFFICE OF
3rd Council District *
The Farm, LLC * ADMINISTRATIVE HEARINGS
Legal Owner
Forefront Power, LLC * FOR BALTIMORE COUNTY
Lessee
Petitioners * Case No. 2019-0057-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 The Farm, LLC, legal owner and Forefront Power, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Professional engineer Andrew Brown and landscape architect Stacy McArthur appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. Two interested 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 Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). None of the reviewing agencies opposed the request.

This case involves a 52.4 acre tract of land along a scenic route in northern Baltimore County. The subject property is zoned RC-2 and a 19.9 acre portion of the site is designated for the special exception use; the balance of the site is planted with crops and is farmed. The proposed solar panels would occupy approximately 6 acres of the special exception area, and the facility would generate 0.825 megawatts alternating current (AC) of electricity.

ORDER RECEIVED FOR FILING

Date 11/27/18
By sln

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.

Ms. McArthur, a landscape architect accepted as an expert, opined Petitioners satisfied all requirements set forth in BCZR Section 502.1 and BCZR Article 4F concerning solar facilities. The witness testified the forest buffer was delineated and shown on the site plan and that none of the proposed solar panels would be in an environmentally-sensitive area. Ms. McArthur also testified there was no flood plain on site and that the large areas of forest at the south of the site would be protected by a forest conservation easement.

Based on this testimony and the exhibits submitted at the hearing Petitioners have established a *prima facie* case entitling them to the special exception. I do not believe the testimony from Protestants successfully rebutted this *prima facie* case. James Baseman, who lives about one mile from the site, testified that solar facilities should not be in the RC 2 zones, and would be much more appropriate in a commercial area. That may be the case, but the County Council decided otherwise and Bill 37-17 expressly permits solar facilities in RC-2 zones and along scenic routes. The bottom line is the Protestants' objections in this case are virtually identical to those expressed by opponents in all of the prior zoning cases proposing solar facilities

ORDER RECEIVED FOR FILING

Date 11/27/18
By sln

in northern Baltimore County. I believe this underscores that these are detrimental impacts inherent in the operation of a large solar facility, and the petition cannot be denied on that basis. *Montgomery County v. Butler*, 417 Md. 271, 276-77 (2010) (opponent must show “non-inherent adverse effect” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”).

THEREFORE, IT IS ORDERED this 27th day of **November, 2018**, by this Administrative Law Judge, that the Petition for Special Exception 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 DOP, copies of which are attached hereto and made a part hereof.
3. No barbed wire fencing shall be permitted in connection 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

11/27/18

By

sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

ORDER RECEIVED FOR FILING

S:\Planning\Shared\Users\wlippincott\scenic view development plan review\20920 Old York Road.docx

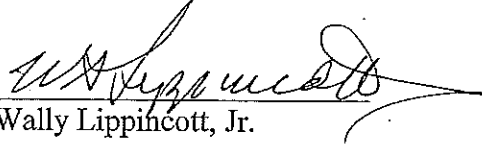
Date 11/27/18

By sen

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

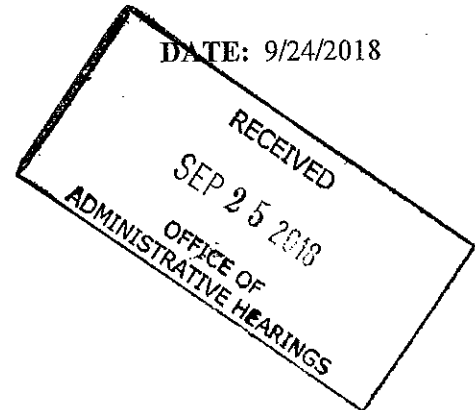
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

- 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 §4E-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.

ORDER RECEIVED FOR FILING

Date

11/27/18

By

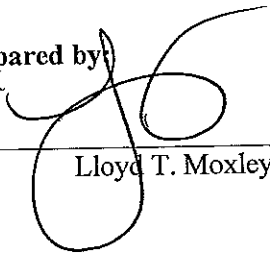
sen

- 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.

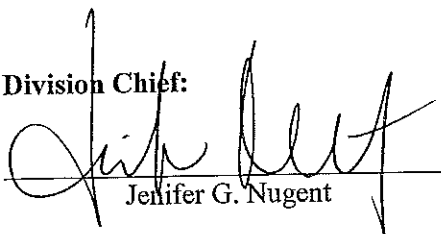
Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:


Lloyd T. Moxley

Division Chief:


Jennifer G. Nugent

AVA/JGN/LTM/

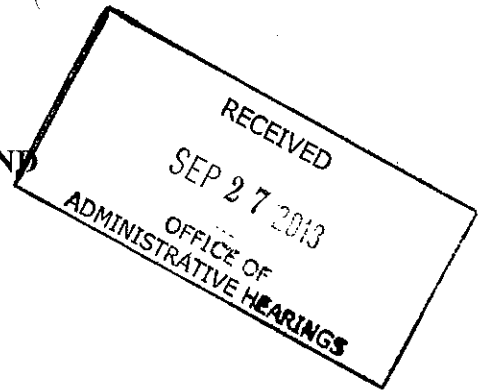
c: Joseph Wiley
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date 11/27/18

By sen



DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 27, 2018

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

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,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

11/20/2018

Case No.:

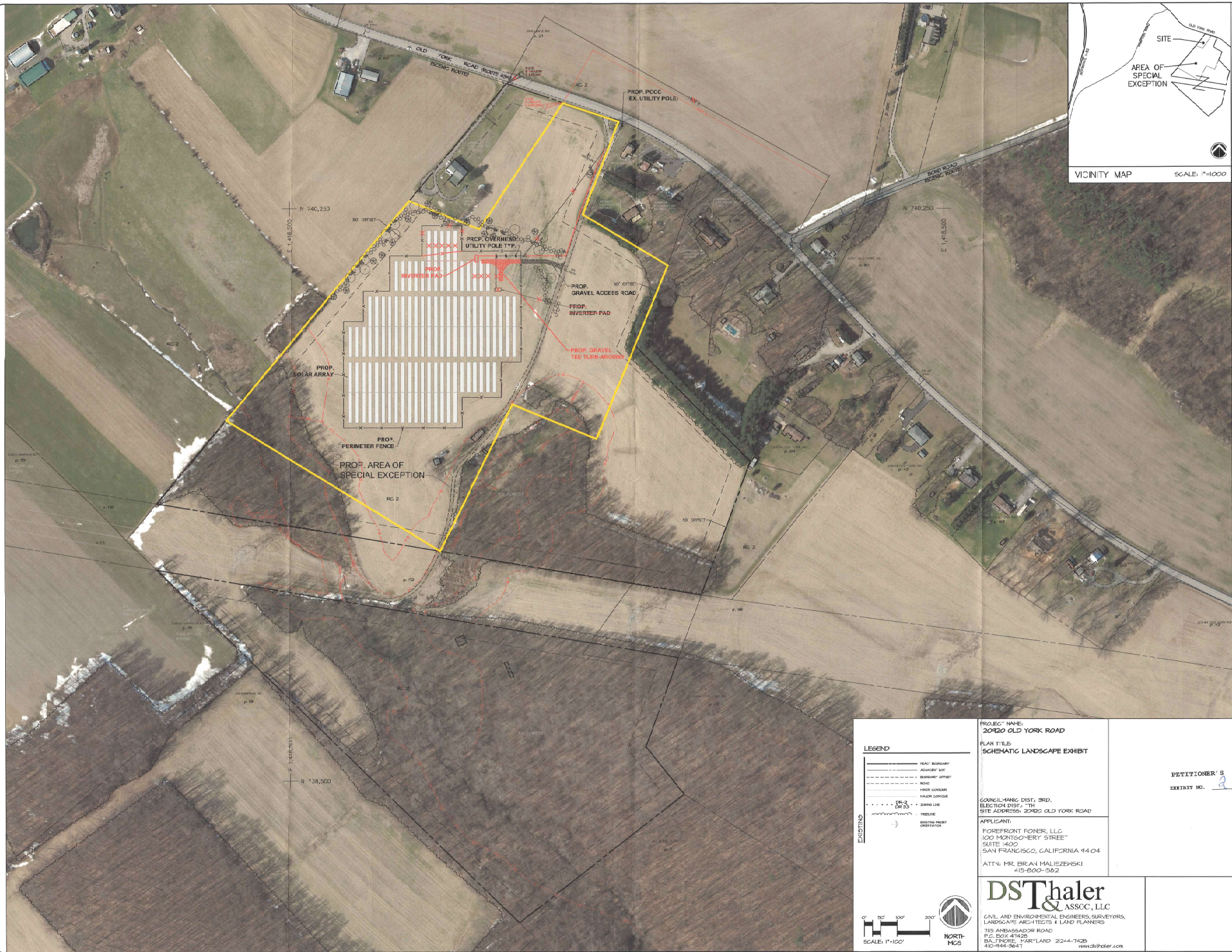
2019-0057-X

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Plan	Aerial photo/map w/environmental features.
No. 2	Aerial w/ Landscaping	Photos of Animals on Fences
No. 3	3A-30" Photos	11-20-2018 Sparks-Glencoe Letter
No. 4	Aerial plan w/ site boundary	
No. 5	Zoning Description	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



SCHEMATIC LANDSCAPE EXHIBIT
20920 OLD YORK ROAD

LEGEND TRAIL BOUNDARY ADJACENT LOT BOUNDARY OFFSET ROAD FENCE CORNER HANDS CORNER DRAINAGE DRAINAGE LINE TREELINE EXISTING OBSTRUCTION	PROJECT NAME: 20920 OLD YORK ROAD PLAN TITLE: SCHEMATIC LANDSCAPE EXHIBIT	PETITIONER'S EXHIBIT NO. <u>2</u>
	COUNCIL-MANIC DIST. 3RD, ELECTION DIST. 1TH SITE ADDRESS: 20920 OLD YORK ROAD APPLICANT: FOREFRONT POWER, LLC 100 MONTGOMERY STREET SUITE 1400 SAN FRANCISCO, CALIFORNIA 94104 ATTN: MR. BRIAN MAJEZEWSKI 415-600-562	DATE: 11/20/2018 SCALE: 1"=100' G.I. 2" PROJ. NO. 04054 SHEET 1 OF 1

DSThaler
& ASSOC., LLC
CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
LANDSCAPE ARCHITECTS & LAND PLANNERS
7115 AMBASSADOR ROAD
P.O. BOX 41428
BALTIMORE, MARYLAND 21244-7428
410-444-3647
www.dsthaler.com

3A

ZONING NOTICE

CASE # 2019-0057-X

A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

ROOM 205, JEFFERSON BUILDING

PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204

DATE AND TIME: TUESDAY, NOVEMBER 20, 2018
AT 1:30 P.M.

SPECIAL EXCEPTION RELIEF FOR A SOLAR FACILITY,
FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE
REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR
BALTIMORE COUNTY,
20920 OLD YORK ROAD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CANCEL HEARING CALL BEHIND

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

3B



3C



3D



3E



3F



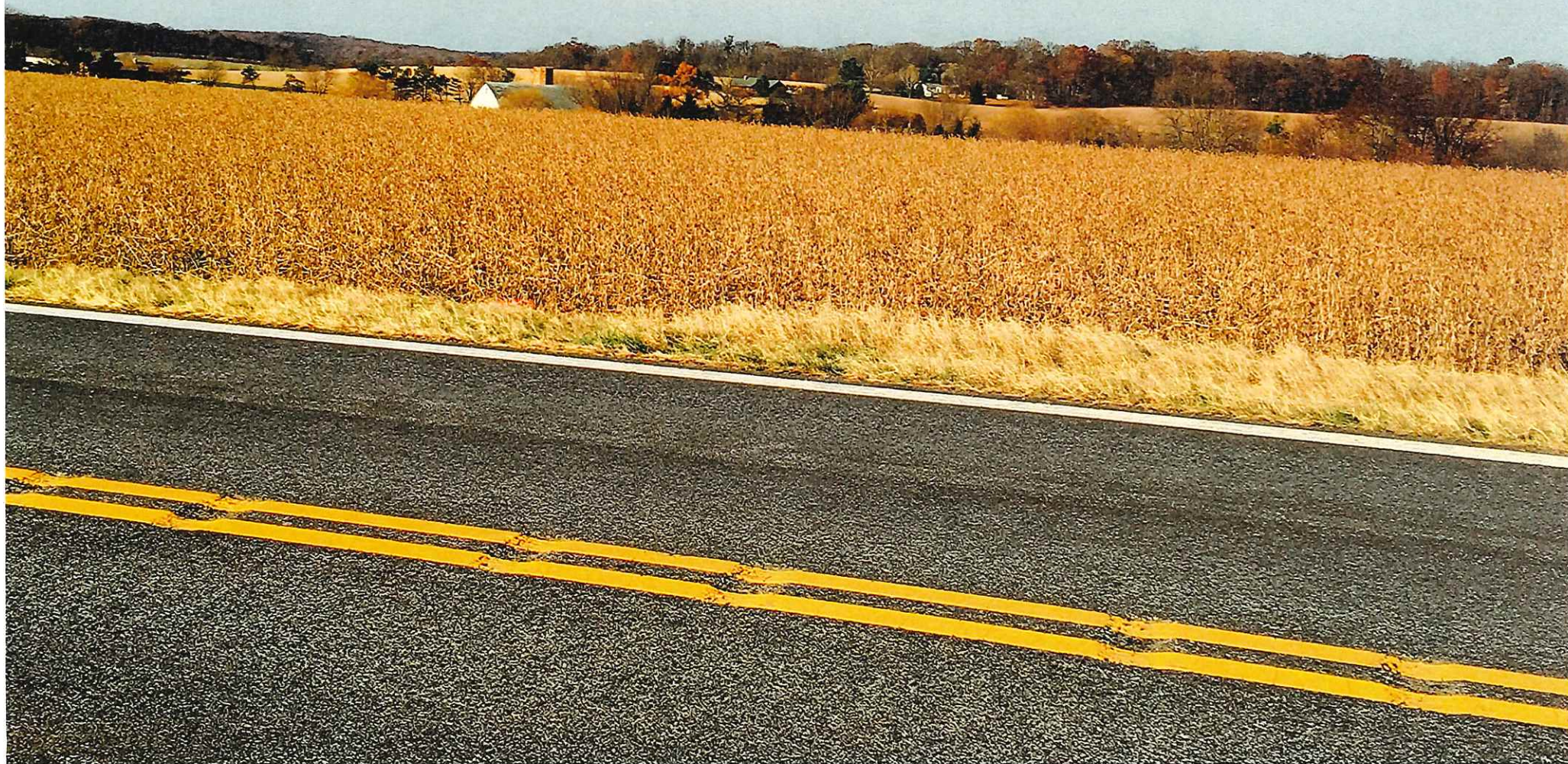
36



3H



31





3K



3L



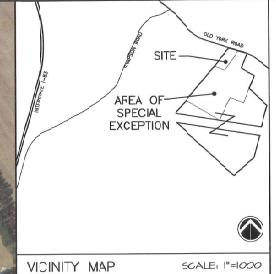
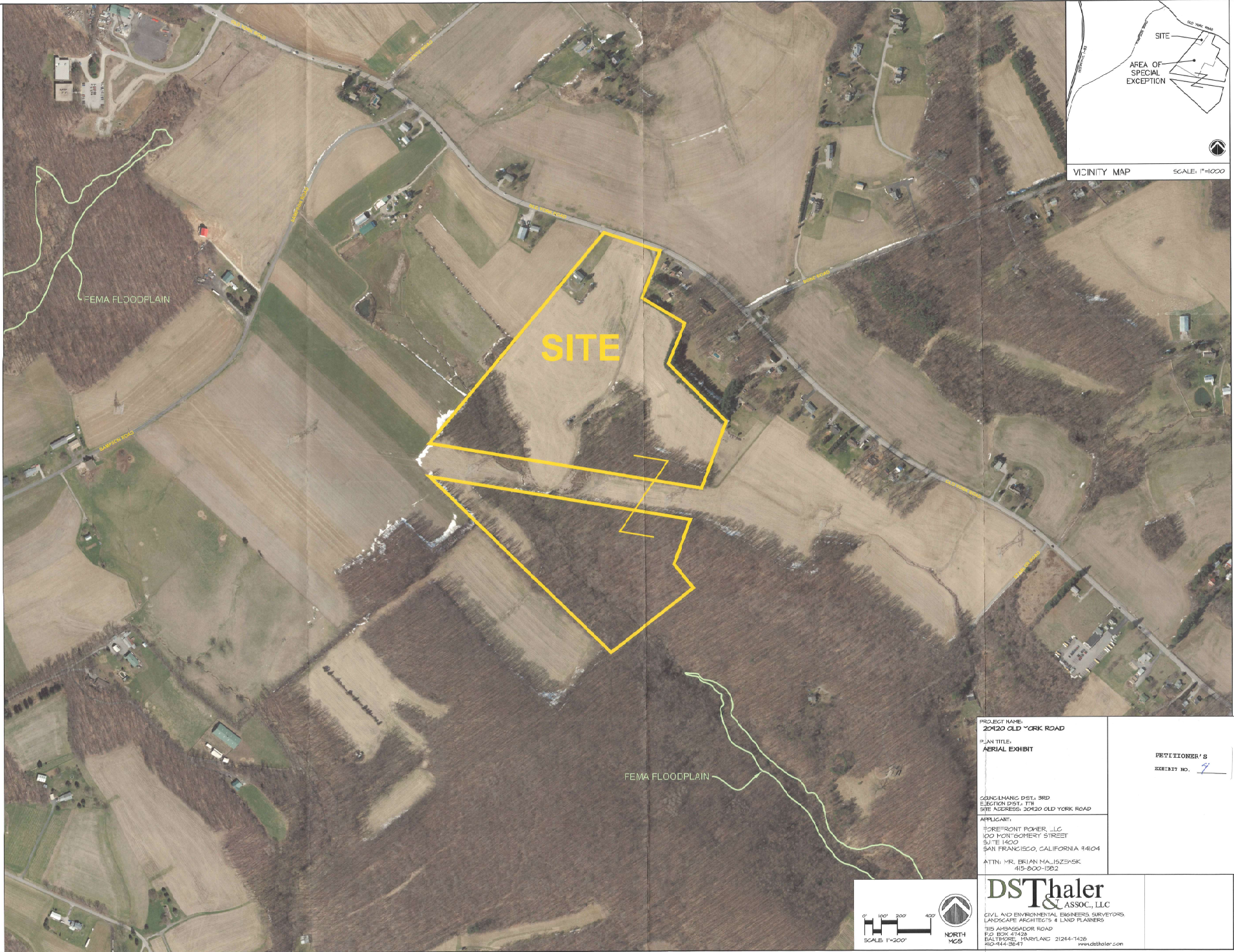
3M



3N







AERIAL EXHIBIT
20920 OLD YORK ROAD

PROJECT NAME:
20920 OLD YORK ROAD

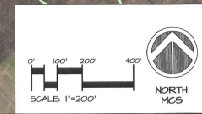
PLAN TITLE:
AERIAL EXHIBIT

CONGLIANG DIST. 3RD
 ELECTION DIST. 1TH
 SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT:
 FOREFRONT POWER, LLC
 100 MONTGOMERY STREET
 SUITE 1400
 SAN FRANCISCO, CALIFORNIA 94104

ATTN: MR. BRIAN MALISZEWSKI
 415-600-1582

PETITIONER'S
 EXHIBIT NO. 7



DSThaler & ASSOC., LLC

CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
 LANDSCAPE ARCHITECTS & LAND PLANNERS

115 AMBASSADOR ROAD
 P.O. BOX 47428
 BALTIMORE, MARYLAND 21244-1428
 410-444-2647

www.dsthaler.com

DATE: 1/20/2016
 SCALE: 1"=200'
 C.S. 2"
 PROJ.: NGJ 04394
 SHEET 1 OF 1

Ref No 5

November 13, 2018

ZONING DESCRIPTION

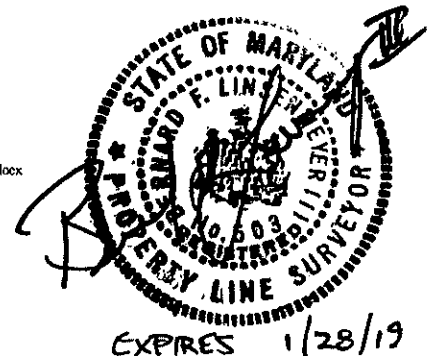
20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 850 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following eleven (11) courses and distances:

1. South 71°20'29" East 146.77 feet to a point; thence
2. South 76°48'11" East 32.20 feet to a point; thence
3. South 21°21'15" West 309.32 feet to a point; thence
4. South 58°50'07" East 303.87 feet to a point; thence
5. South 22°37'50" West 573.56 feet to a point; thence
6. North 67°22'10" West 277.82 feet to a point; thence
7. South 26°27'09" West 500.85 feet to a point; thence
8. North 58°16'32" West 765.35 feet to a point; thence
9. North 39°56'45" East 872.25 feet to a point; thence
10. South 68°01'50" East 231.60 feet to a point; thence
11. North 33°49'13" East 464.66 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.



11/20/2018

Case No.: 2019-0057-X

Exhibit Sheet

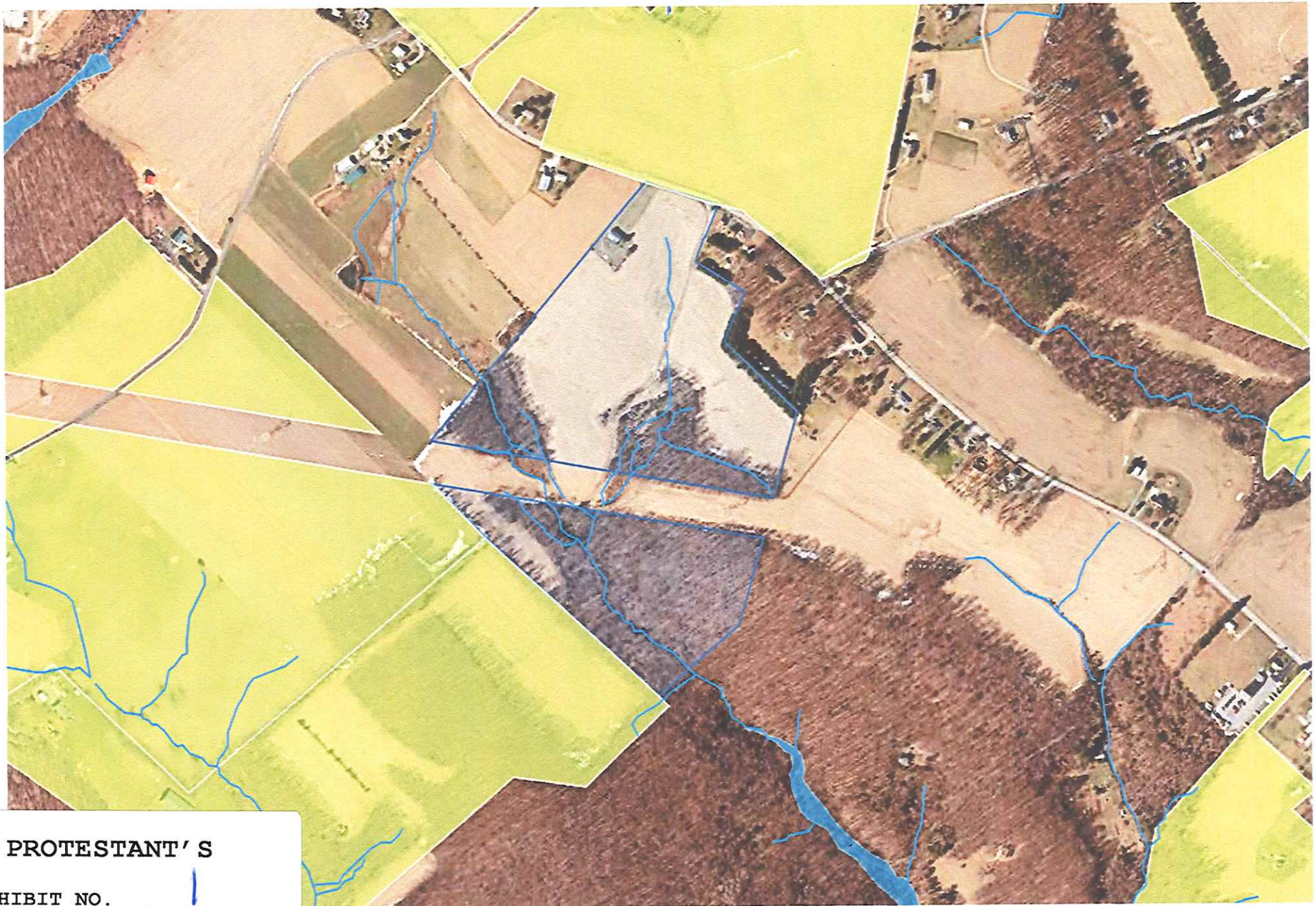
Petitioner/Developer

P2-8-19

Protestants

JLN
11-27-18

No. 1	Plan	Aerial photo/map w/environmental features.
No. 2	Aerial w/ Landscaping	Photos of Animals on Fences
No. 3	3A-30" Photos	11-20-2018 Sparks-Glencoe Letter
No. 4	Aerial plan w/ site boundary	
No. 5	Zoning Description	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PROTESTANT'S

EXHIBIT NO. 1

20920 Old York Rd Case #2019-0057-X

Light blue area: property Light Green areas: Preserved land Site zoning: RC2 and is within an APPA.

Turquoise areas: floodplains This map shows at least 7 waterways/seeps on property.

Rt 439 (Old York Rd) is a scenic road; this site has many visual vantage points along Rt 439, Sampson Rd and Bond Rd, which is also designated scenic.

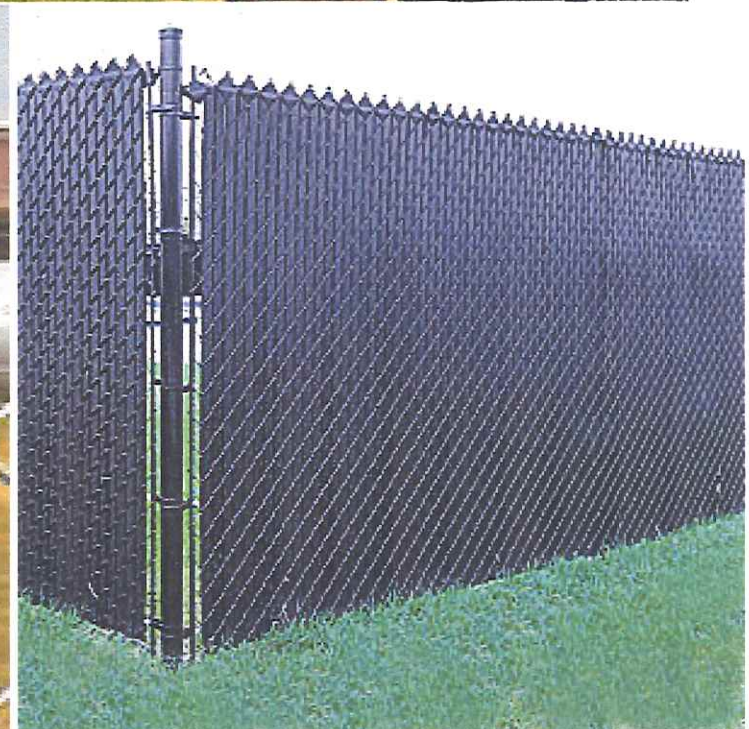
Prot. #1



All of these animals are indigenous to Baltimore County.

PROTESTANT' S

EXHIBIT NO. 2



Images of chain link fencing: The 3 black fences have exposed ends of wire at top. In order to protect wildlife, fence image on bottom left is preferred for rural environments for top of fencing. Not only are ends of wire bent to avoid exposed raw ends, but positioning bar at top of fence adds an additional layer of protection.

Both images on right include plastic strips for concealing purposes, which would look industrial, not natural in this rural setting. None of these fences would enhance or promote a scenic vista at this site, rather they would change the appearance of and promote a commercial environment that does not exist in this specific agricultural community, especially on a scenic route with community views.



Sparks-Glencoe Community
Planning Council
P.O. Box 937, Sparks, MD 21152

November 20, 2018

PROTESTANT' S

EXHIBIT NO. 3

The Honorable John E. Beverungen
Office of the Administrative Law Judge
The Jefferson Building
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2019-0057-X
20920 Old York Rd
3rd Councilmanic District
Legal Owner: The Farm, LLC
Contract Purchaser: Forefront Power, LLC
Hearing Date: November 20, 2018

Dear Judge Beverungen:

The Sparks-Glencoe Community Planning Council (SGCPC) is submitting this letter regarding a request for a special exception for a commercial solar facility in the Third Councilmanic District. This is the latest in a string of such special exception hearings in this District in the past twelve 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 contiguous landholders; impair the viewshed; and impacts surrounding waterways. The Department of Planning is beginning to understand the growing problem for agriculture that this kind of development represents. The Planning Department has acknowledged the Master Plan's warning of "incremental development" as a threat to the agricultural industry. We encourage you to include the question of continued viability of commercial agriculture 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 these projects. **In the recent campaign for County Executive, both candidates promised the Third District residents that the solar land rush would stop.**

Our concerns are particularly acute with regard to this project. Not only is it designated for prime and productive farmland on a scenic route, but also there are no less than seven

springheads and waterways. This entire area is within the Chesapeake Bay watershed. We need the natural springs to support local flora and fauna. These springs also filter water going into the Loch Raven reservoir, which as I am sure you know, is the primary source of drinking water for Baltimore City and much of the County. That reservoir continues to fail to meet federal standards for clean water.

In the event that the special exception is granted, we have several specific concerns. First, we request that any special exception be conditioned on the Department of Permits, Approvals, and Inspections (PAI) imposing 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 approval process. 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.

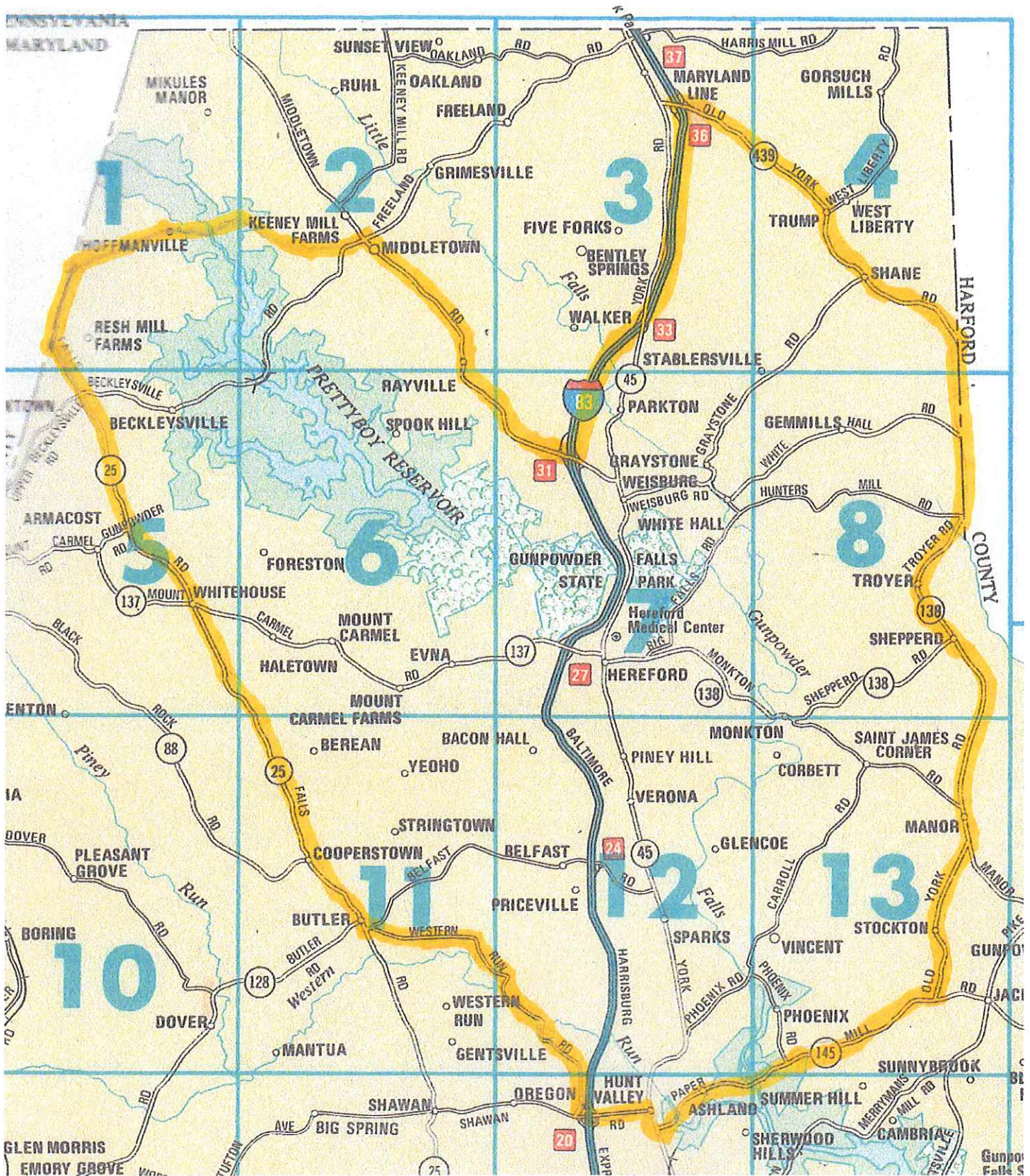
Second, the SGCPD is concerned about the impact on neighboring landowners. This particular site is on a scenic route which is in full view from several visual perspectives. The prospect of diminished land values for the surrounding area is real. It is certainly foreseeable that the viewshed of the larger resource conservation area will also be significantly impaired. It is for that reason any special exception must include significant natural buffers which protect the view from the adjoining roadways, the adjacent property owners, and 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. Accordingly, this project should be denied. If, however, the special exception is granted, there must obviously be many limitations designed to protect the public in general, the environment, water supply 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 consideration in this matter.

Sincerely,


Lynne Jones, President



Sparks Glencoe Community Planning Council Boundaries

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)	*	
7th Election District	*	BOARD OF APPEALS
3 rd Council District	*	
The Farm, LLC	*	OF
Legal Owner	*	
Forefront Power, LLC	*	BALTIMORE COUNTY
Lessee	*	
	*	
Petitioners	*	
	*	
7th Election District	*	
3 rd Council District	*	

CASE NO: 2019-0057-X

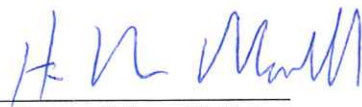
* * * * *

NOTICE OF WITHDRAWAL OF APPEARANCE

Please strike the appearance of H. Barnes Mowell as counsel on behalf of the Protestants in this case; Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Undersigned counsel certifies that he mailed to each of the above Protestants the attached letter, at least five days before the filing of this Notice, advising them of his intention to withdraw from this case, and advising each of them to have another attorney enter their appearance, or to notify the Board of Appeals of their intention to proceed and appear before the Board, in proper person.




 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 22nd day of December 2020 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, 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

December 15, 2020

Sparks Glencoe Community Planning Council, Inc.
Box 937
Sparks, Maryland 21152

Lisa Arthur
Emma Arthur
19500 Burke Road
White Hall, Maryland 21161

Lynne Jones
815 Stablers Church Road
Parkton, Maryland 21120

Kathleen Pieper
4310 Beckleysville Road
Hampstead, 21074

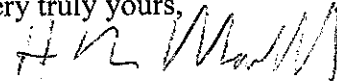
Re: Petition for Special Exception for 20920 Old York Road

Ladies and Gentlemen:

In February 2019, I filed a Notice of Appeal on your behalf regarding the approval of the Petition for Special Exception for a solar facility at 20920 Old York Road. The case has been set for a three-day hearing before the Board of Appeals, beginning January 27, 2021, as shown on the enclosed Notice of Reassignment. As discussed in our recent e-mails, we have jointly agreed that I will not be involved further in this case. I will be filing a Notice with the Board of Appeals withdrawing my appearance. Each of you may have another attorney enter their appearance for you in the case. If you intend to proceed and appear at the hearing in proper person, you should send a Notice to the Board of Appeals to advise them of your intentions.

Thank you for your cooperation in this regard.

Very truly yours,



H. Barnes Mowell

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**

* Admitted in MD, PA, FL
** Admitted in MD, NC

ROBERT B. HAMILTON
NICOLE LAMBDIN
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
MARY G. LOKER
STEPHEN J. NOLAN

March 16, 2020



Sent via First Class Mail

Krysundra L. Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

**Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - 20920 Old York Road
Case No. 19-057-X**

Dear Ms. Cannington:

This is in response to your letter of February 26, 2020 regarding the above matter. As you know, proceedings before the Board were previously indefinitely postponed at the request of the Petitioner. The postponement was requested because of a contemplated revision to the layout of the proposed solar facility.

Please be advised that my clients, The Farm (property owner) and Forefront Power LLC (applicant) are now desirous of moving forward with the project and hereby request that the continuance previously granted be lifted and that this matter be scheduled for hearing before the Board. I am pleased to coordinate dates with you and Mr. Mowell (attorney of the Protestants/Appellants) if appropriate.

For your reference, I am enclosing a copy of the current site plan for this project. In order to address certain of the objections of the Protestants and for other reasons related to the capacity and function of the proposed facility, please note that the project has been "downsized" from its previous footprint. In lieu of four separate rows of solar panels, the proposal now indicates only two rows. Additionally, in order to meet Fire Department access requirements, an internal access road for emergency equipment has been relocated so that all panels are within a short distance thereof. This revised plan will be submitted to the Board at its de novo hearing and Petitioners will request that it be approved in connection with the Petition for Special Exception.

Krysundra L. Cannington

March 16, 2020

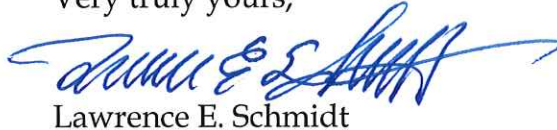
Page 2

Notwithstanding the modest downsizing of the proposal, the project is largely the same as originally submitted and approved by the ALJ. The area and location of the special exception within the property is the same. However, the "footprint" of the actual panel field is reduced in order to provide greater setbacks and buffers to adjacent properties.

As noted above, the attached site plan will be offered to the Board at its hearing as an evidentiary exhibit and Petitioners' request for approval will be of that plan. In that proceedings before the Board are de novo, I would request that the Board retain jurisdiction of this matter and not remand the matter to the ALJ. In addition to the de novo nature of this appeal, please note the at the relief requested is the same (i.e. a petition for special exception, there are no variances requested), the property and parties remain the same, the proposal is essentially the same as approved by the ALJ and that the changes reduce (and do not enlarge) the area of the facility and impacts of the project.

I appreciate and thank you for your patience with this matter. I hope that the Protestants will withdraw their opposition to this project in view of the efforts made by my clients to reduce its impact. However, I am certain that Mr. Mowell will advise of his position and I have copied him with this letter.

Very truly yours,

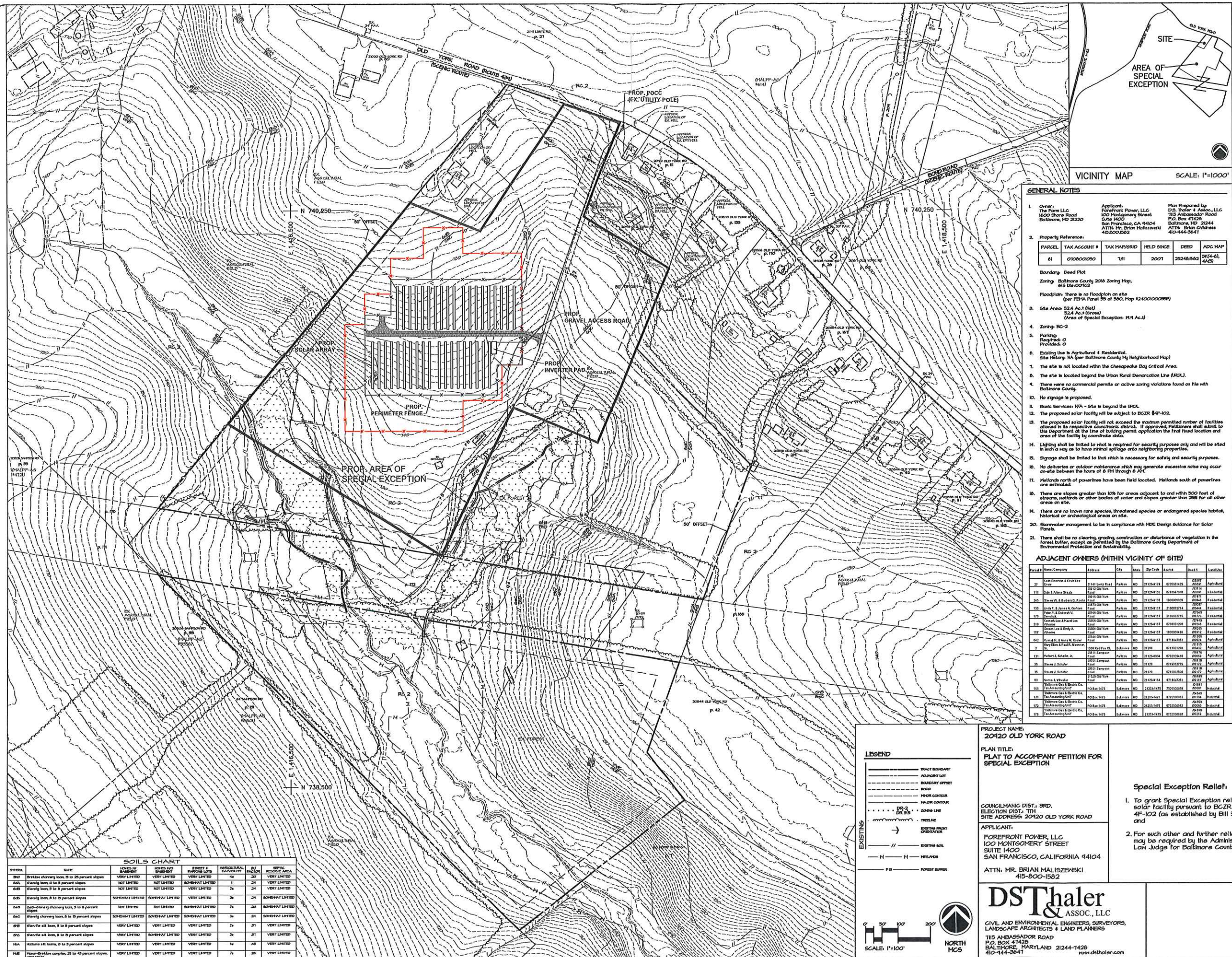
A handwritten signature in blue ink, appearing to read "Lawrence E. Schmidt", with a stylized flourish extending to the right.

Lawrence E. Schmidt

LES/am

Enclosure

cc: H. Barnes Mowell, Esquire
Andrew Brown, D.S. Thaler
Forefront Power, LLC



**PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD**

DATE: 2/13/2020
SCALE: 1"=100'
C.I.: 2'
PROJ. NO.: 04354
SHEET 1 OF 1

The name is: \\old York Rd-20920\dep\Planning\Constitutes\Zoning Plan\OTR Zoning Plan Revised 2020-02-13.dwg Layout/Layout1 Feb 13, 2020-2:25pm TAG



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

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

April 30, 2019

NOTICE OF POSTPONEMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 23, 2019 and has been postponed by request of counsel. This matter will be rescheduled to later dates.

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.
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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Notice of Postponement
In the matter of: The Farm, LLC
Case number: 19-057-X
April 30, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Pete Gutwald, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, April 29, 2019 3:04 PM
To: 'barney Mowell'; Appeals Board
Subject: RE: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Barney: Thank you for your courtesy.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: barney Mowell [<mailto:barneymowell@hotmail.com>]
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: barney Mowell <barneymowell@hotmail.com>
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt, Esquire
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: Appeals Board
Sent: Monday, April 29, 2019 12:05 PM
To: 'barneymowell@hotmail.com'
Cc: Lawrence Schmidt, Esquire
Subject: The Farm, LLC 19-057-X
Attachments: Petitioner's request for postponement.pdf

Good afternoon Mr. Mowell,

Attached please find Mr. Schmidt's request for postponement which was received in our office on Friday.

Please advise if you have any objection to this request for postponement.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH

*Admitted in MD, FL, PA

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS

of counsel:

EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

April 26, 2019

Sent via Hand Delivery

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: **Legal Owner:** **The Farm, LLC**
 Lessee: **Forefront Power, LLC**
 Property: **20920 Old York Road**
 Case No. **2019-057-X**



Dear Ms. Cannington,

This is in reference to the above matter currently scheduled for hearing before the Board on May 9, 2019 and May 23, 2019. This matter is for the consideration of a petition for special exception to permit a proposed solar facility. The petition was filed by my client, Forefront Power, LLC, as lessee. The property owner, The Farm, LLC, is designated as the co-petitioner. Forefront Power, LLC is an energy company and will construct and operate the proposed facility.

My client has recently advised that they are contemplating the transfer/sale of their rights under the current lease to a different entity. This entity would be another entity that is experienced in the development and operation of solar facilities. Under the circumstances, I am hereby requesting a postponement of the May 9th and May 23rd hearing dates and request that the matter be reset after August 1, 2019. Although the anticipated project would largely remain the same, the parties involved would like to have the transaction finalized before a hearing. I also think it appropriate that the ultimate developer and operator of the facility participate at the Board's hearings so as to explain the operational details. Insofar as my calendar for a re-scheduling, I am available August except for the following dates: August 2, 14, 15 and 16.

Ms. Krysundra L. Cannington, Administrator

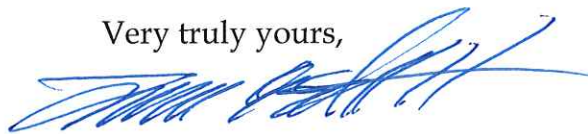
April 26, 2019

Page 2

This postponement will not be prejudicial to any parties. The petition for special exception was granted below and thus the delay occasioned by this request does not prejudice the opponents to the petition. Actually, it is arguably beneficial to them as the project, if approved, will not be constructed until later than initially anticipated. I have copied their counsel with this correspondence. I appreciate the Board's attention to this request and please do not hesitate to contact me should you have any questions.

Thank you for your courtesy.

Very truly yours,



Lawrence E. Schmidt

LES/am

cc: H. Barnes Mowell, Esquire



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

March 19, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 16, 2019. Day 2 of this matter has been changed due to a scheduling conflict. This matter is now

ASSIGNED FOR: **MAY 9, 2019, AT 10:00 A.M. – Day 1**
MAY 23, 2019, AT 10:00 A.M. – Day 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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Amended Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 19, 2019
Page 2

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

**Krysundra "Sunny" Cannington
Administrator**

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

March 5, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-057-X

The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR:

MAY 9, 2019, AT 10:00 A.M. – Day 1
MAY 16, 2019, AT 10:00 A.M. – Day 2

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

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Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 5, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 6, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204



RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Exception - Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 5, 2019. 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,
A handwritten signature in black ink, appearing to read "JEB".
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

c: Baltimore County Board of Appeals
People's Counsel
H. Barnes Mowell, Esq., 16925 York Road, Monkton, Maryland 21111
James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

APPEAL

Petition for Special Exception
(20920 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: The Farm, LLC
Lessee: Forefront Power, LLC
Case No. 2019-0057-X

Petition for Special Exception (August 20, 2018)

Zoning Description of Property (April 16, 2018)

Certificate of Posting – 1st Posting October 27, 2018 (Linda O’Keefe)
2nd Posting November 17, 2018 (Linda O’Keefe)

Newspaper Advertisement – October 31, 2018 – The Daily Record

Notice of Zoning Hearing – September 26, 2018

People’s Counsel Entry of Appearance – August 29, 2018

Zoning Advisory Committee Comments

Petitioner’s Sign-in Sheets – 1 Sheet

Citizen’s Sign-in Sheets- 1 Sheet



Petitioner(s) Exhibits –

1. Plan
2. Aerial w/landscaping
3. 3“A”-3“O” Photos
4. Aerial plan w/site boundary
5. Zoning Description

Protestant(s) Exhibits –

1. Aerial photo/map w/environmental features
2. Photos of Animals on Fences
3. 11-20-2018 Sparks-Glencoe letter

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – November 27, 2018)

Motion for Reconsideration- December 20, 2018 by H. Barnes Mowell

Petitioner’s Response to Motion For Reconsideration- January 4, 2019 by Lawrence E. Schmidt

Administrative Law Judge Order and Letter on Motion For Reconsideration (DENIED-January 8, 2019)

Appeal Notice, Letter & Receipt received from H. Barnes Mowell, Esq. – February 5, 2019

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **174813**

Date: **2/5/19**

Rev
Source/
Sub
Rev/

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				400

Total: **400**

Rec From: **H. BARNES Maxwell**

For: **Office of Administrative Hearings (CD OR APPEAL)**

CASE NO. **2019-00571-X**

ADDRESS OR PROJECT: **20920 Old York Rd**

HEARING DATE(S): **11-20-18**

CHECK # **1500 E 6297**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 2/07/2019 2/05/2019 13:20:59 1

REC WSD1 WALKIN LJR
 >>> RECEIPT # 832443 2/05/2019 OFLN

Dept 5 528 ZONING VERIFICATION
 CRD. 174813

Receipt Tot \$ 400.00

400.00 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
February 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 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

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road)
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

CASE NO: 2019-0057-X

* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 ^{5th} day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, 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
February 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 filing fee.
Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

A handwritten note in black ink on a separate piece of paper, reading: "Hi Sunny & Tammy - I just filed this appeal & am dropping this off to you. Lynne Jones".

Hi Sunny & Tammy -
I just filed this.
appeal & am dropping
this off to you.
Lynne Jones



cc: Baltimore County Board of Appeals
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road) *
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

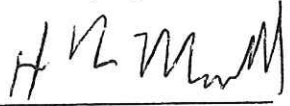
CASE NO: 2019-0057-X

* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 5th day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 8, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

H. Barnes Mowell, Esq.
H. Barnes Mowell, P.A.
16925 York Road
Monkton, MD 21111

RE: **MOTION FOR RECONSIDERATION**
Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Counsel:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a large, stylized flourish or loop.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0057-X

* * * * *

ORDER ON PROTESTANTS'
MOTION FOR RECONSIDERATION

Protestants have filed a motion for reconsideration wherein they raise two (2) arguments: (1) Lessee Petitioner's charter was forfeited on the date of the zoning hearing, and as such the petition should be dismissed; and (2) the size of the special exception area is too large. These arguments are addressed below.

Entity Status

The Lessee in the above-case, which would operate the solar facility, is Forefront Power, LLC. Based on the exhibits attached to Protestants' motion, its entity status was forfeited on November 19, 2018, and the hearing in this case was the next day, November 20, 2018.

Petitioner initially contends (but does not provide any case or statutory authority for the proposition) the forfeiture statute is only applicable in a judicial proceeding. In similar settings (i.e., standing, doctrine of res judicata) Maryland cases have indicated that such rules apply to both judicial and quasi-judicial proceedings. As such, I do not believe this argument has merit.

But Petitioners also note that the legal owner of the subject property (The Farm, LLC) was also a petitioner in the zoning case, and that entity apparently was and is in good standing. As such, I agree with Petitioners that whether or not the Lessee's charter was forfeited is immaterial

ORDER RECEIVED FOR FILING

Date 1-8-19

By 192

in the circumstances of this case; two (2) petitioners signed the zoning petitions even though the legal owner could have filed and prosecuted the case on its own.

Size of Special Exception Area

Protestants contend the size of the special exception in this case is excessive and in support of that argument they submit a chart (attached to the Motion as Exhibit 2) comparing the sizes of special exception areas in recent solar facility cases. As Petitioners note, this evidence was not presented at the hearing and cannot be considered in connection with the motion.

But more to the point, the size of the special exception area was considered at the hearing and Petitioners summarize the testimony of their witness (Kelsey Crane) that addressed this issue. As such, I do not believe the motion presents any "new or different factual situation" which would justify reaching a different conclusion.

WHEREFORE, IT IS ORDERED this 8th day of **January, 2019**, by this Administrative Law Judge, that the Protestants' Motion for Reconsideration, be and is hereby DENIED.

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/dlw

ORDER RECEIVED FOR FILING

Date 1-8-19

By kw



IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR
* BALTIMORE COUNTY
* Case No.: 2019-0057-X

* * * * *

Petitioner's Response to Motion For Reconsideration

The Farm LLC (Legal Property Owner) and Forefront Power, LLC (Lessee), hereinafter referred to collectively as the "Petitioners", through their attorneys, Lawrence E. Schmidt, and Smith, Gildea and Schmidt LLC, hereby files this response to the Motion for Reconsideration of the Administrative Law Judge's ("ALJ") Opinion and Order dated November 27, 2018 filed herein by Sparks Glencoe Community Planning Council, Inc., Kathleen Pieper, and Lynne Jones, hereinafter the "Protestants", and state as follows:

Protestants' Motion for Reconsideration sets forth two issues: (1) a claim that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and thus the ALJ's Order should be stricken and/or the matter reheard; and, (2) the size of the special exception area is larger than is required, and should be reduced. For the following reasons, Protestants' Motion for Reconsideration is legally insufficient and should be denied.

**I. Lessee's Purported Forfeiture Of Its Corporate Charter
Does Not Require Dismissal Of Owner's Petition For Special Exception
and/or the striking of the ALJ's Opinion and Order**

Respondents' Motion for Reconsideration asserts that the Lessee (identified in the petition as Forefront Power, LLC) is no longer in good standing with the Maryland State Department of Assessments and Taxation ("SDAT") and this failure justifies striking the ALJ's Opinion and Order and/or remanding of the petition for further proceedings. This argument is manifestly improper.

The zoning petition form requires that the property owner be identified and that a signature from the property owner be secured. In fact, the petition contains an oath and affirmation clause whereby the owner must expressly declare that it is the "legal owner(s) of the property which is the subject of this/these Petition(s)." The property owner in this case is identified as "The Farm LLC" and that entity is a valid Maryland LLC and in good standing. "The Farm LLC" is the title owner of the property and is rightfully and appropriately designated/identified in the petition. Therefore, there is a proper petitioner to prosecute and maintain the Petition for Special Exception at issue.

Zoning regulates the use of land, and does not relate to the status or identity of a lessee or contract purchaser. It is axiomatic that zoning "runs with the land" and it is thus the identity and consent of the property owner to the filing of the petition that is paramount and necessary. As a practical matter, it is customary to predicate the application on a particular use, rather than for a particular lessee or contract purchaser. The Protestants objections are mindful to the situation where relief is sought by a property owner who proposes leasing its property for a particular use (e.g. a fast food

restaurant, i.e. McDonald's) and then terminates that lease and enters into a new lease for an identical use through a different lessee (i.e. Burger King). Such a scenario would not invalidate a petition brought by the owner. For so long as the proposal is the same, the relief sought does not change and the owner moves the petition; then the identity of the lessee is meaningless. Thus, whether Forefront Power, LLC or some other entity leases the property, the issue is the same.

Moreover, the identified Lessee (Forefront Power, LLC) was a Maryland LCC in good standing at the time the Petition for Special Exception was filed. The Lessee is a subsidiary of a California entity (Forefront Power) that conducts business related to energy use across the United States. It established Forefront Power LLC as a Maryland entity in order to begin operations in this state. It intends to create an entity for each project in Maryland (there are numerous solar projects proposed by Forefront in Baltimore County and other Maryland jurisdictions). During and subsequent to proceedings before this Court, Forefront Power, LLC's charter was or about to be forfeited with SDAT. While a business entity is required to maintain its good standing, Petitioners submit a failure in that regard was not deliberate and appropriate paperwork to correct this has been filed with SDAT. In fact, the SDAT website (copy attached) indicates that Forefront Power, LLC filed a personal property tax return for the calendar year 2018 on December 17, 2018 and changed its resident agent on December 4, 2018. These filings were accepted by SDAT and evidence that the entity is not abandoned. Forefront Power, LLC's charter will be reinstated in the near future or a new entity specific to this project will be formally created.

Finally, the case cited in support of the Motion is inapposite. That case cited deals with a matter pending in a court of law, not in an administrative forum. The case is specific to an entity's authority to prosecute a claim in a court of law, not a quasi judicial administrative setting. As importantly, and as indicated hereinabove, there is a valid entity identified in the Petition that is prosecuting this case. That entity, The Farm LLC, is in good standing and is a valid business entity.

II. The Size Of The Special Exception Area Was Properly Considered At The ALJ Hearing

Respondents' Motion for Reconsideration reiterates concerns regarding the size of the special exception area. However, the topic of the special exception area was raised by the community at the hearing; thus this issue has already been considered. Even so, Respondents claim the ALJ erred when he in fact considered and evaluated the size of the special exception area.

As articulated by this Court before, a motion for reconsideration is properly granted only when "some new or different factual situation exists that justifies a different conclusion." *Calvert County v. Howlin Realty, Inc.*, 364 Md. 301, 325 (2001). In this case, the Respondents have not identified "some new or different factual situation." The Protestants were present at the hearing and were given the full opportunity to participate thereat and offer whatever testimony, evidence and argument they desired. Protestants' testimony regarding the size of the special exception has already been considered within the body of evidence offered at the initial hearing. Now, having

failed to convince this Court at the hearing, Protestants asks for yet one more chance, but have provided no viable reason why the Court should do so.

Notwithstanding above, Kelsey Crane, Assistant Project Manager for Forefront Power, LLC, testified to the proposed solar facility. Pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") § 102.A.1., the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts ... of electricity." B.C.Z.R. provides no limitation as to the acreage amount necessary for the megawatt output. According to Ms. Crane's testimony, there are numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments. Petitioners must do so in keeping with the above-quoted provision.

Protestants attempt to breathe life into its position by referencing the size of acres of other properties proposed for solar facilities in unrelated special exception cases. By doing so, Protestants inadvertently support Ms. Crane's testimony and the concept that every solar facility special exception area is unique to the property and developer.

Under BCZR § 502.1(A), a special exception use is prohibited if it is "detrimental to the health, safety or general welfare of the locality involved." *Schultz v. Pritts*, 291 Md. 1 (1981). In *Schultz*, the Court of Appeals held 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 [ALJ] that the

proposed use would be conducted without real detriment to the neighborhood ... he has met his burden." 291 Md. 1, 11, 432 A.2d 1319, 1325 (1981).

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*, 152 A.3d 765 (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. As testified to at the hearing, the proposed solar facility use satisfied the standards set forth in B.C.Z.R. § 502.1 and does not have detrimental effects above and beyond the inherent ones ordinarily associated with such a use. Thus, as a matter of law, Petitioner has established a prima facie case of entitlement to the special exception.

Additionally, in every Baltimore County zoning case, the petition for relief is circulated to several county agencies seeking comment and input concerning the propriety of the zoning request. By memorandum dated 11/16/18, none of the reviewing agencies recommended decreasing the special exception area. Had there been a concern with the special exception area, such a concern would have been noted.

As apparent from Ms. Crane's testimony, there are a variety of factors which inform the design and layout of a solar facility. Protestants have offered no compelling

reason why it should receive another bite at the apple and, for that reason, its Motion for Reconsideration should be denied.

Finally, and as importantly, the new “evidence” offered has no relevance to the facts of this case. This evidence is a recitation of claims made by Protestants in other cases. That evidence is not proper evidence in the record of the instant case. It simply has no relevance to the instant proceedings and should not be relied upon as a basis for any reconsideration.

Conclusion

In summary, a Motion for Reconsideration serves a limited function in quasi-judicial hearings. While the Motion certainly elaborates upon the arguments Protestants made at the hearing, it does not present any new or additional facts. In *Calvert County v. Howlin Realty, Inc.*, the court held that an agency (like the OAH) “may reconsider an action previously taken and come to a different conclusion upon a showing that ... some new or different factual situation exists that justifies the different conclusion.” In this case, the Petitioners have not identified “some new or different factual situation.” Zoning is not a plebiscite, and cases cannot be decided based on the number of people favoring versus opposing a project. *Neuman v. City of Baltimore*, 23 Md. App. 13, 16 (1974) (“[z]oning should never be allowed or disallowed on the basis of a plebiscite of the neighborhood”). Special exceptions are in fact presumptively proper uses. The Owner in this case presented testimony from qualified experts that satisfied the elements required for a special exception for a solar facility. Because there are

insufficient reasons for the ALJ to reverse his decision, Protestants' Motion for Reconsideration should be denied

Respectfully submitted,

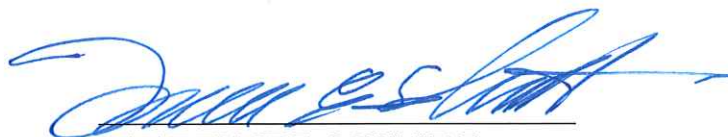


LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410)821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of **January, 2019**, a copy of the foregoing Response to Protestants' Motion for Reconsideration was mailed first-class, postage prepaid to:

H. Barnes Mowell
16925 York Road
Monkton, MD 21111
Protestants' Counsel



LAWRENCE E. SCHMIDT

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FOREFRONT POWER, LLC: Z17731399

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Annual Report/Personal Property

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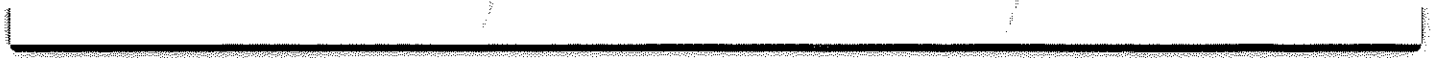
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RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

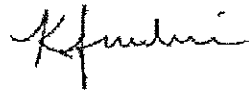
to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed



Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 80 BUSINESS CODE _____

217731399

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging/Converting _____

Surviving/Resulting _____



1000362011684893

ID # 217731399 ACK # 1000362011684893
PAGES: 0002
FOREFRONT POWER, LLC

12/04/2018 AT 03:54 P WO # 0004913385

New Name _____

FEES REMITTED

Base Fee: 25
Org. & Cap. Fee: _____
Expedite Fee: 50
Penalty: _____
State Recordation Tax: _____
State Transfer Tax: _____
Certified Copies _____
Copy Fee: _____
Certificates _____
Certificate of Status Fee: _____
Personal Property Filings: _____
NP Fund: _____
Other: _____

TOTAL FEES: 75

Credit Card _____ Check ☒ Cash _____

_____ Documents on _____ Checks

Approved By: 15

Keyed By: _____

COMMENT(S):

_____ Change of Name
_____ Change of Principal Office
☒ Change of Resident Agent
☒ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent
and Resident Agent's Address
_____ Change of Business Code

_____ Adoption of Assumed Name

_____ Other Change(s)

Code _____

Attention: _____

CSC-LAWYERS INCORPORATING SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

CUST ID: 0003696808
WORK ORDER: 0004913385
DATE: 12-06-2018 12:33 PM
AMT. PAID: \$925.00

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FOREFRONT POWER, LLC: Z17731399

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Filing History

Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2019		No		
2018	12/17/2018	No		
2017		No		
2016		No		
2015		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2019	0	0	
2018	0	0	
2017	0	0	
2016	0	0	

Asmt. Year

County Base

Town Base

Date Certified

2015

0

0

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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



December 20, 2018

Office of Administrative Hearings
105 W. Chesapeake Avenue
Suite 103
Towson, Maryland 21204

via Hand-Delivery

Re: Petition for Special Exception
Case No: 2019-0057-X
Property: 20920 Old York Road

Ladies and Gentlemen:

I have enclosed, for filing, a Motion for Reconsideration of the Opinion and Order in this case dated November 27, 2018.

Should you have any questions, please contact me.

Very truly yours,

H. Barnes Mowell

cc: Lawrence E. Schmidt, Esquire

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR
<i>Lessee</i>		
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO: 2019-0057-X

* * * * *

MOTION FOR RECONSIDERATION

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074, Protestants, who submit the following Motion for Reconsideration of the Opinion and Order in this case, pursuant to Rule 4K of the Zoning Commissioner's Rules of Procedure. The Protestants raise two issues for reconsideration: 1). It appears that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and it should not have been allowed to prosecute its claim, and, 2). The size of the special exception area is larger than is required, and should be reduced.

Forfeited Entity

The solar company that filed for a Special Exception in this case is Forefront Power, LLC. According to the Maryland Department of Assessments and Taxation (SDAT) website, and as shown on the attached Exhibit 1, Forefront Power LLC ("Forefront") is a limited liability company formed in Delaware in December 2016. In January 2017, Forefront registered with the SDAT to do business in the state of Maryland, and listed the nature of its business as "Assume and enter into contracts associated with solar power projects." Registration in Maryland

triggered the requirement to file property returns each year with the Maryland SDAT. Forefront failed to file its property return for 2018, and, as a result, the entity was forfeited on November 19, 2018, according to the SDAT website. See attached Exhibit 1.

The hearing before the Administrative Law Judge for this case was held on November 20, 2018. At that hearing, Forefront put on evidence, called witnesses, and prosecuted a case in furtherance of its request to install a solar facility at 20920 Old York Road. Section 4A-911(d) of the Corporations and Associations Article of the Annotated Code of Maryland, however, precludes prosecuting such a claim. Under that statute, an LLC which fails to file its annual report is forfeited, and its “right to do business in Maryland and the right to the use of the name for each limited liability company is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.”

The meaning of that language was discussed in Price v. Upper Chesapeake Health Ventures, 192 Md. App. 695 (2010). In Price, a Maryland LLC filed suit at a time when it was a forfeited entity, for failure to file a personal property tax return for 2005. For that reason, the case was dismissed in the Circuit Court, and the LLC appealed. The Court of Special Appeals began by noting the language in a related statute: “C&A 4A-920 provides that a contract executed or an act performed by the LLC after the C&A 4A-911 forfeiture is valid, and the LLC may defend an action in court.” Price at 707. From that, the Court reasoned that a forfeited LLC cannot file or maintain an action:

“Nevertheless, with respect to court proceedings, the statute expressly provides that a forfeited entity may only *defend* an action in court. The negative implication of such language, and the sweep of the “doing business” and name “using” prohibition is that the company may not *file or maintain* a lawsuit after its rights have been forfeited.” Price at 707-708.

The Court held that “an LLC whose rights have been forfeited for tax failures still exists as an entity, but may only defend an action in court, not prosecute one.” Price at 709. The Court

of Special Appeals affirmed the Circuit Court's dismissal of the case. For the same reason, Forefront should not have been permitted to prosecute its case before the Administrative Law Judge. Forefront's lack of standing to prosecute a case was fatal to the jurisdiction of the administrative proceeding, and the case should have been dismissed at the hearing on November 20th. See Cassidy v. County Board of Appeals of Baltimore County, 218 Md. 418, 422 (1958). What has been done to date is void for lack of jurisdiction, and that issue may be raised if the case moves forward to the Board of Appeals and Circuit Court. The only remedy, at this point, is to remand the case for a new hearing before the Administrative Law Judge. As of today's date, Forefront Power LLC remains a forfeited entity, and its right to do business in Maryland, and the right to the use of that name, is still forfeited. See attached Exhibit 1.

Size of Special Exception Area

Section 4F-102(B) of the Solar Facilities Law 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."

Kathleen Pieper, a Baltimore County resident, has examined this issue, and has testified in other solar cases before the Board of Appeals. She has charted the special exception acreage required to produce one megawatt of electricity for twelve proposed projects in Baltimore County. See attached Exhibit 2. She found that the project at 10790 Raphel Road, for example, proposed to produce one megawatt on four acres. At the other end of the chart, the 632 Freeland Road project needs 9.5 acres to produce one megawatt. In the instant case, a remarkable 19.9 acres are designated as the special exception area, to produce only .825 megawatts of electricity.

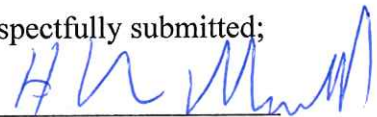
Why do the Petitioners in this case need almost 20 acres to produce less than one megawatt when it can be done on Raphel Road on 4 acres?

4F-102(B)(1) is a specific requirement included in the new solar law to only allow efficient solar arrays in Baltimore County. Land in the County may only be allocated to that area needed to create 2 megawatts, or, in this case, .825 megawatts. Poorly designed systems, and systems with inefficient panels that take up more land than is needed, should not be allowed. It appears that the Petitioners have such a system in mind. Their proposal should either be denied outright, or re-worked to take up less land in Baltimore County.

In another solar case, such a decision was made at the administrative hearing. In Case Number 2017-0108-X, concerning the property at 20450 Middletown Road, Bluefin Origination 2, LLC proposed to utilize 18.73 acres for a solar facility. After a comparison of the land needed in other solar cases to produce 2 megawatts, the Order granted the special exception, but reduced the special exception area from 18.73 acres to 13 acres. See attached Exhibit 3.

For the foregoing reasons, the Protestants respectfully request that the Opinion and Order in the instant case be reversed, and the case either be dismissed, or remanded for a new hearing before the Administrative Law Judge. In the alternative, the Special Exception area should be reduced to 4 acres, in keeping with the statutory requirement that the land be limited to only the acreage needed to produce the specified megawatts of electricity.

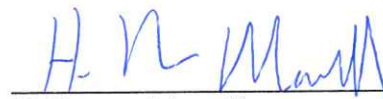
Respectfully submitted;



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 20th day of December 2018 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell



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Department ID	Business Name	Status	View Business Details
Z17731399	FOREFRONT POWER, LLC	Forfeited	View Business Details
Z17747379	FOREFRONT POWER DEVELOPMENT LLC	Active	View Business Details

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FOREFRONT POWER, LLC: Z17731399

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General Information

Department ID Number: Z17731399

Business Name: FOREFRONT POWER, LLC

Principal Office: 13738 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Resident Agent: CSC-LAWYERS INCORPORATING
SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

Status: FORFEITED

Good Standing: THIS BUSINESS IS NOT IN GOOD
STANDING

What does it mean if a business
entity is not in good standing or
forfeited?

» Order Certificate of Status

Business Type: FOREIGN LLC

Business Code: 20 ENTITIES OTHER THAN
CORPORATIONS

Date of Formation/ Registration: 01/17/2017

State of Formation: DE

Stock Status: N/A

Close Status: N/A

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① REGISTRATION	1/17/2017 4:03:00 PM			3

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General

THE ENTITY WAS FORFEITED FOR FAILURE TO FILE PROPERTY RETURN FOR 2018.

X Close

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DEPT ACTION - FORFEITURE	11/19/2018 10:52:00 PM			
PROBATION / RESTRICTION / FURTHER ORDER	8/19/2017 8:30:00 AM			3
REGISTRATION	1/17/2017 4:03:00 PM			3

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Order Documents

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FOR MORE INFORMATION, PLEASE CONTACT:
Maryland Department of Assessments & Taxation
410-767-1194 | Outside the Baltimore Metro Area: 888-246-5941
Maryland Relay: 800-735-2258

FOR TECHNICAL QUESTIONS AND SUPPORT

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Incorrect Forfeiture Date: A number of our customers recently received a Final Forfeiture Letter from SDAT. This letter, with a mailing date of 10/16/2018, contained an Incorrect Forfeiture Date. The correct date your entity will be forfeited will be **12/17/2018**, with an effective date of 10/16/2018. We apologize for any confusion the incorrect date may have caused.

Please see our FAQs for additional information [HERE](#).

FOREFRONT POWER, LLC: Z17731399

General Information

Filing History

Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2018		No		
2017		No		
2016		No		
2015		No		
2014		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2018	0	0	
2017	0	0	

State Department of Assessments and Taxation

LIMITED LIABILITY COMPANY REGISTRATION (FEE \$100.00) (For non-Maryland Limited Liability Company)

This document must be accompanied by written proof of existence from the home state, equivalent of a Certificate of Good Standing

1) Full legal name in home jurisdiction Forefront Power LLC **AD**

2) Name it will use in Maryland if different from above

(Must include Limited Liability Company or LLC)

3) State of Formation Delaware

4) Date of Formation December 21 2016

5) Principal Office Address 13736 Riverport Drive Maryland Heights MO 63043

6) Nature of Business in Maryland Assume and enter into contracts associated with solar power projects

7) Name and Address (No P O Boxes) of Resident Agent for Service of Process in Maryland
The Corporation Trust Incorporated

351 West Camden Street Baltimore Maryland 21201

If no Resident Agent in Maryland is named or if the Agent cannot be found or served this Department is appointed as Resident Agent of this Limited Liability Company

Has this Limited Liability Company done business in Maryland prior to this registration?

Yes ☐

No ☒

(If yes an additional \$200 Penalty Must accompany this registration)

[Signature]
(Signed Authorized Person)

I hereby consent to my designation in this document as resident agent for this Limited Liability Company
The Corporation Trust Incorporated

By

[Signature]
(Signed Resident Agent)

Steven P Zimmer Asst Vice President

Room 801-301 West Preston Street - Baltimore Maryland 21201
Phone (410) 767 1350 - TTY Users call Maryland Relay 1 800 735 2258
Toll Free In MD 1 888 246 5941 - website <http://www.dat.maryland.gov>

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WORK ORDER 0004723068
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Page 1

I, JEFFREY W BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "FOREFRONT POWER, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SEVENTEENTH DAY OF JANUARY, A D 2017

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE



6257299 8300

SR# 20170264665

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication 201879717

Date 01 17 17

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

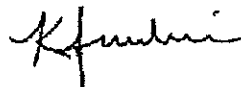
to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed



Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

Baltimore County Community Solar Projects

■ SE Acres/MW

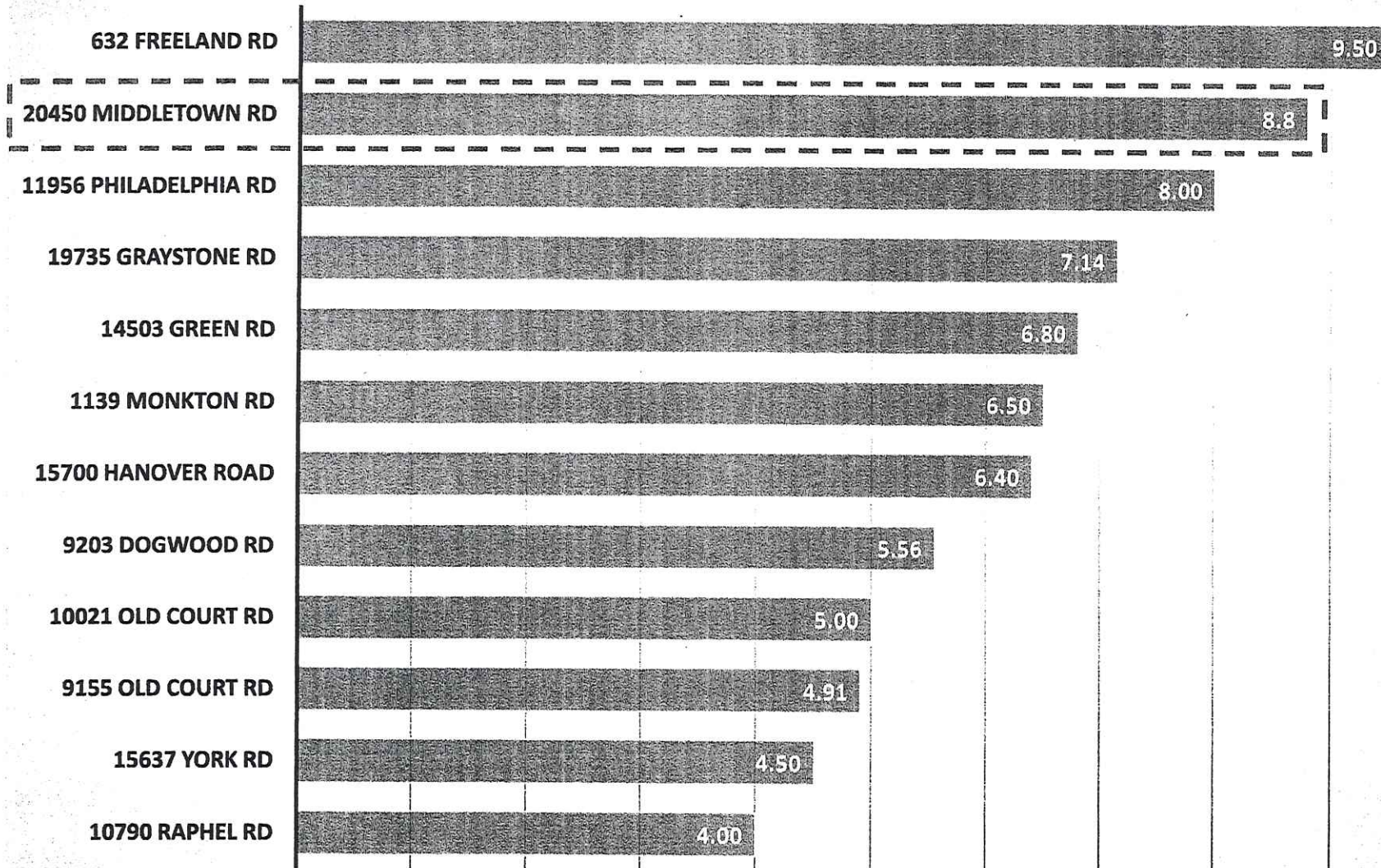


Exhibit 2

1/22/18

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20450 Middletown Road) *
6th Election District * OFFICE OF
3rd Council District *
David William Matthews * ADMINISTRATIVE HEARINGS
Legal Owner *
Bluefin Origination 2 LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * Case No. 2017-0108-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 David William Matthews, legal owner and Bluefin Origination 2, LLC, lessee ("Petitioners"). The Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") seeks approval to operate a solar facility at the subject property.

Jeffrey S. Webber and Parker Sloan with Cypress Creek Renewables, Tim Dertebaugh, Brian Conlon, and David L. Martin, L.A. with Martin & Phillips Design Associates, Inc., the firm that prepared the site plan, appeared in support of the petition. Christopher D. Mudd, Esq. and Patricia A. Malone, Esq. represented the Petitioners. Numerous citizens attended the hearing to express opposition to the request. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). Neither agency opposed the requests.

The subject property is approximately 70.979 acres and is split-zoned RC-2, RC-4, RC-5 and RC-8. The property is on Middletown Road, which is designated as a scenic route. The property was previously a farm, although with the exception of a small area there are no farming activities at the property presently. Petitioners propose to utilize 18.73 acres of the tract for a solar

facility. Petitioners would install between 8,500 to 9,000 solar panels, which would generate approximately 1.9 Mw of AC electricity.

The Lessee's zoning manager, Parker Sloane, testified his company is one of the largest solar providers in the United States, with projects in 12 states. Mr. Sloane testified the panels will be approximately 9 to 10 ft. in height and will rotate throughout the day to face the sun, although he noted the movement would be imperceptible. Like other solar proposals in Baltimore County, this facility would be unmanned and the operator will perform routine inspections 1 to 2 times per year.

Mr. Sloan stated the company had an alert system that would provide immediate notification of any problem or malfunction at the site. The witness testified his company used an "industry standard tool" and determined that there will be no concern with glare from the panels. Mr. Sloane indicated that only the inverter would generate noise, which he likened to a hair dryer. But given its location on the site he stated no noise at all would be heard from outside the property boundaries. In response to questions on cross-examination, Mr. Sloane testified Cypress Creek has completed over 200 projects since 2006, and that based on reports of appraisers hired by the company they have determined solar facilities do not have an adverse impact upon property values.

Many of the citizens had questions concerning the safety of the panels, and to address these issues the Petitioners presented testimony from Jeff Webber, an engineer employed by Cypress Creek. Mr. Webber, who was accepted as an expert, described the different types of silicon used in solar panels, and the attributes of each. He testified silicon is not a hazardous material and that the modules and the racks in which they are located are made of sand, aluminum, copper wire and steel. Mr. Webber stated only the transformer could "leak", and that if that occurred only mineral oil would be discharged. He said there was only an "extremely small risk" such a leak would

occur, and he said the hardwired monitoring system would alert the company immediately if that happened.

With regard to safety, Mr. Webber testified if the electric grid went down, the solar facility would immediately shut down. The witness stated the inverter would shut off within 2 seconds in such a scenario, and that while the panels would continue to function there would not be a current of electricity flowing and there would be no danger of electrocution. In response to questions on cross examination, Mr. Webber conceded economics drives how a facility is designed. He said while it might be possible (i.e., through use of higher efficiency panels) to generate 1.9Mw of electricity on less than 18 acres, the company would incur higher costs in doing so, which would make the project less profitable and/or economically unfeasible.

The final witness was David Martin, a registered landscape architect accepted as an expert. Mr. Martin prepared both the site plan (Exhibit 1) and the schematic landscape plan (Exhibit 8) for the project. He described the project and reviewed each of the requirements of B.C.Z.R. Article 4E, which he stated Petitioners satisfied. Mr. Martin opined the use proposed was "benign," and he testified Petitioners satisfied all requirements for a special exception. He also indicated that in connection with an earlier zoning case (No. 2000-0342-SPH) involving this property—which permitted the construction of a dwelling on an undersized parcel—environmental buffers were provided to Baltimore County to protect the water and forest resources on the site.

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. Martin opined Petitioners satisfied the requirements of B.C.Z.R. § 502.1 and applicable case law, which under *Attar* and similar cases established a *prima facie* case entitling them to the special exception. While the neighbors expressed many valid concerns with the facility, the issues they identified are inherent in the operation of a solar facility. As such, I do not believe that testimony can rebut the presumption provided by Maryland law that special exception uses are in the public interest.

Having said that, I believe the community raised one issue in particular which warrants further discussion; i.e., the size of the special exception area. The law states that the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts . . . of electricity." B.C.Z.R. §102.A.1. Based on Mr. Webber's testimony, there appear to be numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments.

But in this scenario, they must do so in keeping with the above-quoted provision. Similar solar facilities have been approved in several recent cases. What follows is the case number, special exception area and electricity generated:

2018-0047 (9 acres; 2Mw)
2018-0052 (6.4 acres; 1Mw)
2018-0072 (6 acres; 840Kw)
2018-0078 (9.8 acres; 2Mw)
2018-0095 (16 acres; 2Mw)

While the community opposed the request in each of the above cases (with the exception of No. 2018-0095, which was unopposed), this is the first case in which the acreage issue was squarely presented. Each of the petitioners in the above cases was (like the Lessee here) a for-profit entity, which means it is safe to assume the projects proposed were economically viable. I certainly understand there are a variety of factors which inform the design and layout of a solar facility, but based on the foregoing I believe a 13 acre special exception area would be sufficient to allow for the production of 2Mw of electricity, and such a restriction will be included below.

THEREFORE, IT IS ORDERED this 22nd day of January, 2018, by this Administrative Law Judge, that the Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") 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 submit for approval by Baltimore County a landscape plan for the site demonstrating, among other things, appropriate screening and vegetation is provided along the scenic route, as required by the Landscape Manual.
3. Petitioners shall install a fence of sufficient height surrounding the solar panels which will, per the electric code, prevent the need for a barbed wire fence enclosure.
4. No weed killers or herbicides shall be used to control weed or grass growth at the facility.

5. Prior to issuance of permits, Petitioners must satisfy the environmental regulations set forth in Article 33 of the Baltimore County Code, pertaining to the protection of water quality, streams, wetlands and floodplains.
6. No trees shall be removed from the special exception area shown on the site plan in connection with the construction and/or operation of the solar facility.
7. Petitioners shall within 30 days of the date hereof submit to the OAH a redlined site plan showing a "special exception area" for the solar facility no larger than thirteen (13) acres.

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



DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 27, 2018

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a long horizontal flourish.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0057-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 The Farm, LLC, legal owner and Forefront Power, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Professional engineer Andrew Brown and landscape architect Stacy McArthur appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. Two interested 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 Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). None of the reviewing agencies opposed the request.

This case involves a 52.4 acre tract of land along a scenic route in northern Baltimore County. The subject property is zoned RC-2 and a 19.9 acre portion of the site is designated for the special exception use; the balance of the site is planted with crops and is farmed. The proposed solar panels would occupy approximately 6 acres of the special exception area, and the facility would generate 0.825 megawatts alternating current (AC) of electricity.

ORDER RECEIVED FOR FILING

Date 11/27/18
By sln

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.

Ms. McArthur, a landscape architect accepted as an expert, opined Petitioners satisfied all requirements set forth in BCZR Section 502.1 and BCZR Article 4F concerning solar facilities. The witness testified the forest buffer was delineated and shown on the site plan and that none of the proposed solar panels would be in an environmentally-sensitive area. Ms. McArthur also testified there was no flood plain on site and that the large areas of forest at the south of the site would be protected by a forest conservation easement.

Based on this testimony and the exhibits submitted at the hearing Petitioners have established a *prima facie* case entitling them to the special exception. I do not believe the testimony from Protestants successfully rebutted this *prima facie* case. James Baseman, who lives about one mile from the site, testified that solar facilities should not be in the RC 2 zones, and would be much more appropriate in a commercial area. That may be the case, but the County Council decided otherwise and Bill 37-17 expressly permits solar facilities in RC-2 zones and along scenic routes. The bottom line is the Protestants' objections in this case are virtually identical to those expressed by opponents in all of the prior zoning cases proposing solar facilities

ORDER RECEIVED FOR FILING

Date

11/27/18

By

sln

in northern Baltimore County. I believe this underscores that these are detrimental impacts inherent in the operation of a large solar facility, and the petition cannot be denied on that basis. *Montgomery County v. Butler*, 417 Md. 271, 276-77 (2010) (opponent must show “non-inherent adverse effect” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”).

THEREFORE, IT IS ORDERED this 27th day of **November, 2018**, by this Administrative Law Judge, that the Petition for Special Exception 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 DOP, copies of which are attached hereto and made a part hereof.
3. No barbed wire fencing shall be permitted in connection 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

11/27/18

By

sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

ORDER RECEIVED FOR FILING

S:\Planning\Shared\Users\wlippincott\scenic view development plan review\20920 Old York Road.docx

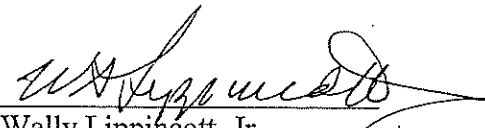
Date 11/27/18

By Sen

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

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Date 11/27/18
By sen

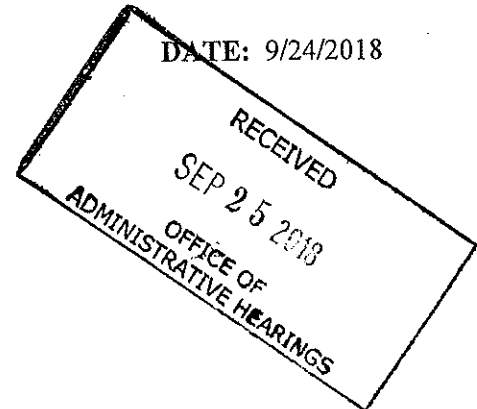
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

- 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 §4E-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.

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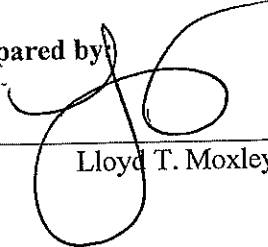
sen

- 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.

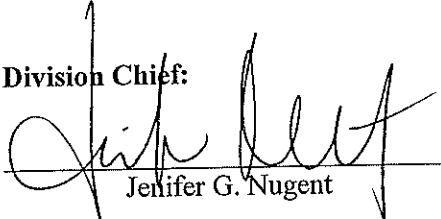
Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by


Lloyd T. Moxley

Division Chief:


Jennifer G. Nugent

AVA/JGN/LTM/

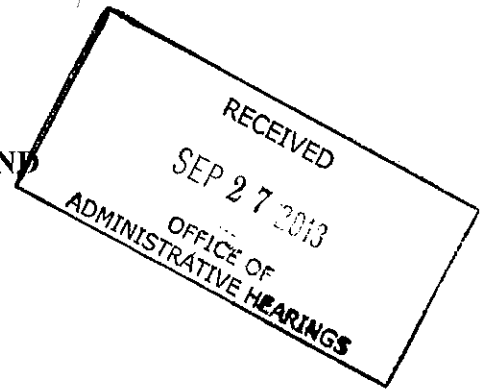
c: Joseph Wiley
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

CASE NAME The Farnin
CASE NUMBER 2019-57-X
DATE 11/20/18

[illegible]

PLEASE PRINT CLEARLY

CASE NAME 2019-0057-X
CASE NUMBER _____
DATE 11/20/18

CITIZEN'S SIGN - IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER

DATE: 11/17/2018

Case Number: 2019-0057-X

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~

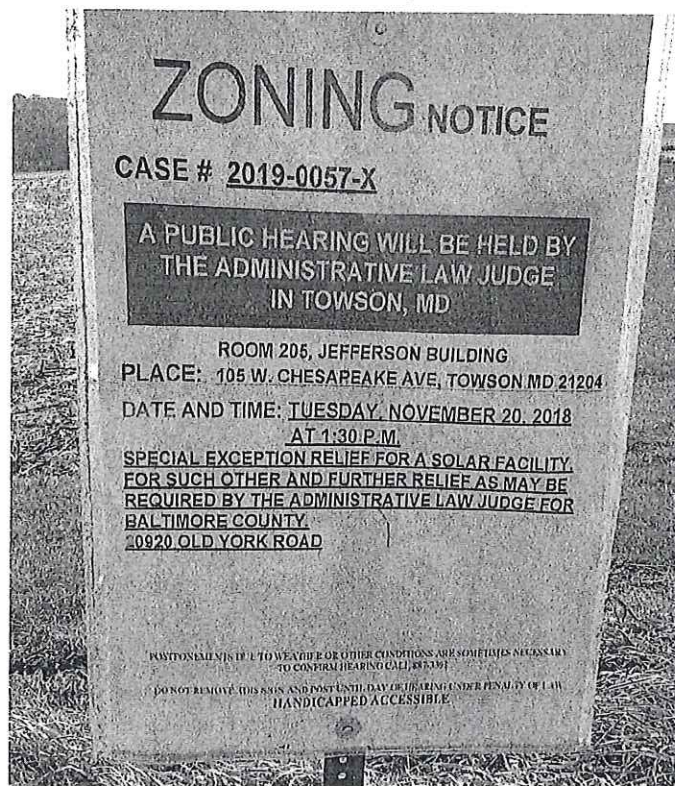
BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: OCTOBER 27, 2018

The sign(s) were re-photographed on: NOVEMBER 17, 2018



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)





1st Sign

2nd Sign

Re-photographed 11/17/2018 @ 20920 Old York Rd.
CASE # 2019-0057-X



JB 11-20-18
1:30 PM

Debra Wiley

From: Linda Okeefe <luckylinda1954@yahoo.com>
Sent: Saturday, November 17, 2018 8:53 PM
To: Administrative Hearings
Subject: 2nd Certification Case # 2019-0057-X
Attachments: Old York Rd. Cert..jpeg; Old York Rd. photos.docx

Hi Sherry,

I have attached the 2nd Certification along with photos for Case # 2019-0057-X @ 20920 Old York Rd.

Thank you,

Linda

Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com





DONALD I. MOHLER III
County Executive

November 16, 2018

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

Dennis Danielczyk, Jr.
1600 Shore Rd.
Baltimore, MD 21220

Dear Mr. Danielczyk, Jr.:

RE: Case Number: 2019-0057X, Address: 20920 Old York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 20, 2018. 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,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: MTC

Enclosures

c: People's Counsel
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC 600 Washington Ave. Ste 200 Towson, MD 21204
Brian Maliszewski, Authorized Rep. of Forefront Powe, LLC. 100 Montgomery St. Ste 728 San Francisco, CA 94104

ZAC
Comments

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning



PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

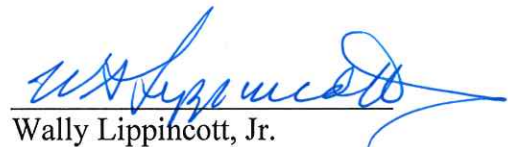
- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "*maintain a buffer between the road and the new development*" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

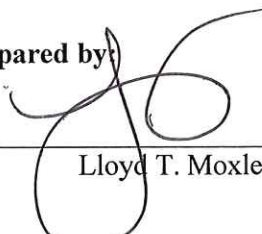
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-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.

Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

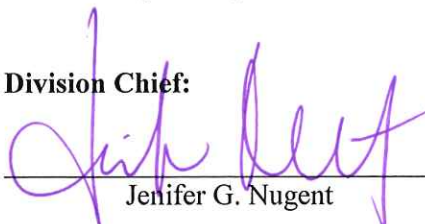
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley

James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
MJL
FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review
SUBJECT: Zoning Advisory Committee Meeting
For September 03, 2018
Item No. 2019-0057-X

DATE: September 12, 2018

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.

Proposed gravel access road should be paved in order to be dustless and durable.

Specific landscape comments:

1. Old York Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. 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 # 7 below),
5. More comments may be rendered during review of the landscape plan and 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,
6. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
7. Landscape screening appears to be needed to address adjacent properties views as it relates to the proposed solar facility. Including, but not limited to 20912, 20916 and 21004 Old York Road (Scenic Route).

*

*

*

*

*

VKD: cen
cc: file

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 8/27/18

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

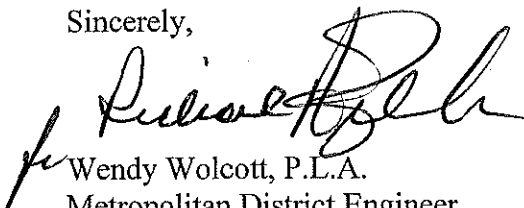
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2019-0057-X

*Special Exception
The Farm LLC, Dennis Danielczyk
20920 Old York Road.*

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,


Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100

<http://www.thedailyrecord.com>

Page 1 of 1

PUBLISHER'S AFFIDAVIT

Order #: 11629823
Case #: 2019-0057-X
Description:

NOTICE OF ZONING HEARING CASE NUMBER: 2019-0057-X

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:

10/31/2018



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: 2019-0057-X

20920 Old York Road

S/S Old York Road, n/w of Bond Road

7th Election District - 3rd Councilmanic District

Legal Owners: The Pann, LLC, Dennis Danielezyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Malszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 106 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 410-887-3888.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

o31

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/27/2018

Case Number: 2019-0057-X

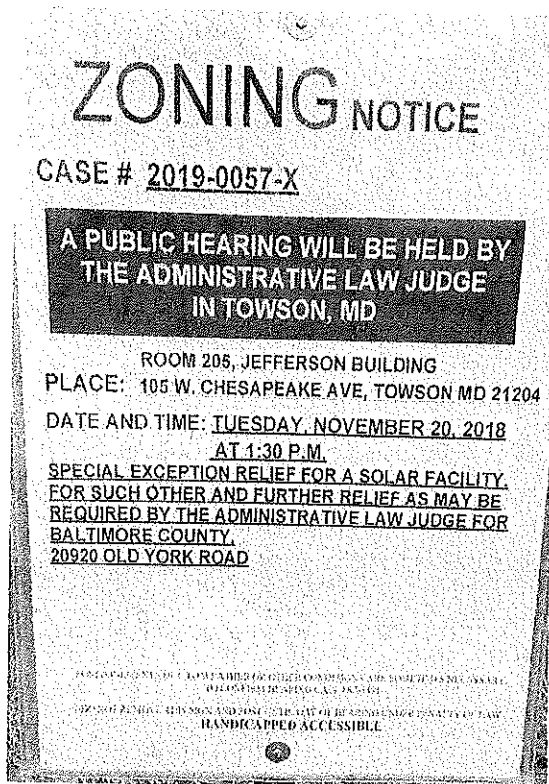
Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~

BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: **OCTOBER 27, 2018**



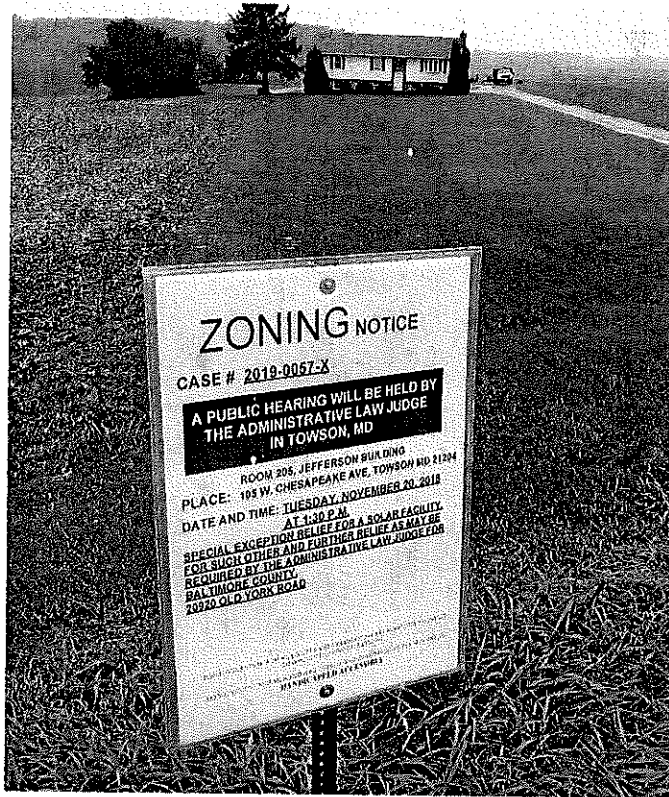
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



1st Sign posted @ 20920 Old York Rd. 10/27/2018



2nd Sign posted @ 20920 Old York Rd. 10/27/2018
CASE # 2019-0057-X



DONALD I. MOHLER III
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 26, 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: 2019-0057-X

20920 Old York Road

S/s Old York Road, n/w of Bond Road

7th Election District – 3rd Councilmanic District

Legal Owners: The Farm, LLC, Dennis Danielczyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Maliszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Brian Maliszewski, Forefront Power, 100 Montgomery St., Ste. 725, San Francisco CA 94104
Dennis Danielczyk, The Farm, 1600 Shore Road, Baltimore 21220

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WED., OCTOBER 31, 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 * BEFORE THE OFFICE
20920 Old York Road; S/S Old York Road, * OF ADMINISTRATIVE
1000' NW Bond Road *
7th Election & 3rd Councilmanic Districts * HEARINGS FOR
Legal Owner(s): The Farm, LLC *
by Dennis Danielczyk, Jr. * BALTIMORE COUNTY
Contract Purchaser(s): Forefront Power, LLC*
Petitioner(s) * 2019-057-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 29 2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2018, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

August 16, 2018

ZONING DESCRIPTION

20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 1,000 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following ten (10) courses and distances:

1. South 64°18'09" East 179.17 feet to a point; thence
2. South 28°33'30" West 304.69 feet to a point; thence
3. South 51°37'52" East 303.87 feet to a point; thence
4. South 29°50'05" West 573.56 feet to a point; thence
5. North 60°09'55" West 277.82 feet to a point; thence
6. South 33°39'24" West 500.85 feet to a point; thence
7. North 51°04'18" West 766.16 feet to a point; thence
8. North 47°09'00" East 872.37 feet to a point; thence
9. South 60°49'35" East 231.60 feet to a point; thence
10. North 41°01'28" East 462.51 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.



Item #0057



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 20920 Old York Road which is presently zoned RC 2
 Deed References: 25248/00682 10 Digit Tax Account # 0708001050
 Property Owner(s) Printed Name(s) The Farm, 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
 Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name- Type or Print

Signature

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / bmaliszewski@forefrontpower.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Shore Road Baltimore MD

Mailing Address City State

21220

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Do Not Schedule Dates: 11/27/18 Reviewer SD

Date 11/27/18 REV. 10/4/11

By SD

ORDER RECEIVED FOR FILING

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item #0057

IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 19-057-X
*

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals (“Board”) as an appeal of both the Opinion and Order of Administrative Law Judge (“ALJ”) John E. Beverungen, dated November 27, 2018 and an Order Denying Protestants’ Motion for Reconsideration (also entered by ALJ Beverungen), dated January 8, 2019. Collectively, these decisions by the ALJ granted, with restrictions, a Petition for Special Exception for a proposed solar facility located at 20920 Old York Road. The Petition was filed by The Farm, LLC (Property Owner) and Forefront Power, LLC, Lessee.¹ Forefront is an energy company which, among other activities, constructs and operates solar facilities. An appeal of ALJ Beverugen’s Opinion and Orders was filed by Sparks Glencoe Community Planning Council Inc., Lynne Jones, Lisa Arthur, Emma Arthur and Kathleen Pieper (collectively, the “Protestants”). After some delay, the matter came in before the Board for public hearing. At that requisite public hearing the Petitioner/Property Owner was represented by Lawrence E. Schmidt, Esquire and the Protestants were not represented by counsel.

¹ Although the Petition was filed by Forefront Power, a national energy company, the lease between that entity and the Property Owner was conveyed to FFP MD Community Solar, LLC. This LLC is a business entity created by Forefront Power to develop this specific property/project. The lessees shall be referred to herein simply as “Forefront”.

Prior to the Board's hearing, the parties advised the Board that they had reached a settlement as to the issues presented. The terms of the settlement reflected an agreement by the parties that the relief requested should be granted, and that certain conditions be included in the Board's order.² Further, the parties requested, and the Board permitted, that the relevant factual evidence related to this case be presented via a proffer by Mr. Schmidt. A brief summary of those proffered facts is as follows:

FACTUAL BACKGROUND AND ANALYSIS

The subject property is a 52.4-acre tract of land located in a rural area of northern Baltimore County. The property is zoned RC 2. As originally proposed at the time that the Petition was considered by the ALJ, 19.9 acres of the subject property were proposed to encompass the area of the special exception and the proposed solar panel field was to occupy approximately six acres. However, pursuant to the settlement of the parties, the area of the special exception has been decreased to approximately 16.2 acres, although the Settlement Agreement (in order to provide flexibility as the project moves into the permitting phase) provides that the area of the special exception cannot exceed 17 acres. The area occupied by the solar panel field has likely wise been reduced. The details of the proposal, as revised, are shown on the attached site plan, attached hereto as Exhibit B. Additionally, additional and enhanced landscaping has been provided to further buffer and visually screen the proposal from adjacent properties and public roads.

The Board has entertained numerous appeals in the recent years over proposed solar facilities, particularly those facilities proposed in the northern rural areas of Baltimore County. As with the facilities proposed in those cases, the proposal here is for a solar facility developed pursuant to the State of Maryland's community solar program. BCZR Article 4F (adopted by the

² A copy of the settlement agreement is attached hereto as Exhibit A.

County Council via the enactment of Bill 37-17) regulates solar facilities in Baltimore County. BCZR Sec. 4F-102 states that solar facilities are permitted by special exception in the RC 2 zone. Additionally, BCZR Sec. 4F-104 sets forth a number of "requirements" for solar facilities. These include that such facilities cannot be on land encumbered by preservation or agricultural easement, that solar facilities cannot be located within a historic district or on land encumbered by certain environmental easements and that a landscape buffer and security fencing be provided. Additionally, solar facilities must be set back a minimum of fifty (50) feet from the tract boundary, cannot exceed twenty (20) feet in height and shall be designed to reduce glare/reflection onto adjacent properties and roads. The proffered evidence presented was that the proposed facility meets or exceeds all of these requirements as stated in BCZR Sec. 4F-104.

In addition to the requirements promulgated through Bill 37-17, the proposed special exception (as is required of all special exceptions) must satisfy the criteria in BCZR Sec. 502.1. Again, the proffered evidence was that this standard is satisfied and that the special exception proposed in this matter will not cause any detrimental impacts worse here than elsewhere in the zone. (See *Schultz v. Pritts*, 291 Md. 1 (1981))

As noted hereinabove, the parties hereto reached a settlement of their differences and consummated a settlement agreement. Under the Agreement, Forefront agrees to the following:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
- e. The area of the special exception shall be no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
- f. There shall be no barbed wire used to fence/secure the area occupied by the

- solar panels;
- g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

Insofar as the Protestants, they have agreed to not opposed the special exception and not challenge or appeal any approval thereof.

Upon due consideration of the proffered testimony and evidence presented, the Board is persuaded to grant the requested relief. The Board finds that the request meets the definitional and other requirements in BCZR 4F and the special exception test set forth in BCZR 502.1 Further, the Board finds the proposed restrictions/conditions as agreed to by the parties to be reasonable and appropriate. Thus, they shall be incorporated in the Board's order.

ORDER

THEREFORE, IT IS this 28th day of September, 2021, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Special Exception to permit a solar facility be and is hereby GRANTED; subject to the following restrictions and conditions:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection

- period will be replaced;
- e. The area of the special exception shall be to no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
 - f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
 - g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

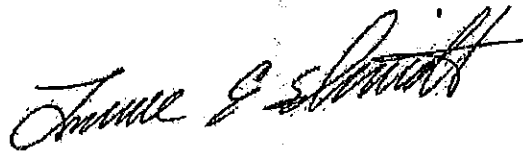
**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair

see following page
Sharonne R. Bonardi

see following page
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

- period will be replaced;
- e. The area of the special exception shall be to no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
 - f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
 - g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**

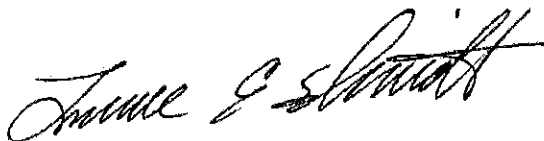
see previous page
Andrew M. Belt, Panel Chair



Sharonne R. Bonardi

see following page
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

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- f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
- g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
- h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
- i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**

see previous page
Andrew M. Belt, Panel Chair

see previous page
Sharonne R. Bonardi

Fred M Lauer
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:

Lawrence E. Schmidt

Lawrence E. Schmidt, Attorney for Forefront

**SETTLEMENT
AGREEMENT**

THIS SETTLEMENT AGREEMENT (referred to hereinafter as the "Agreement") made this 9 day of August, 2021 by and between **FFP MD Community Solar, LLC**, a Delaware limited liability company ("**Forefront**") and **Sparks Glencoe Community Planning Council, Lisa Arthur, Emma Arthur, Lynne Jones, and Kathleen Pieper** (collectively "**Protestants**");

RECITALS:

WHEREAS, Forefront is the Lessee of certain real property located in the Freeland community of northern Baltimore County, known as 20920 Old York Road (the "**Property**"); and,

WHEREAS, Forefront is proposing the development of a solar facility on the Property ("**Solar Facility Project**"); and

WHEREAS, the Baltimore County Administrative Law Judge granted special exception approval of the Solar Facility Project on November 27, 2018, and issued an Order dated January 8, 2019 which denied Protestants' Motion to Reconsider (hereinafter, collectively referred to as the "**ALJ Approval Order**"); and

WHEREAS, the Protestants filed an appeal of the ALJ Approval Order to the Baltimore County Board of Appeals on February 5, 2019 ("**Protestants' Appeal**"); and

WHEREAS, the Protestants' Appeal is pending litigation at the Baltimore County Board of Appeals ("**BOA Case**"); and

WHEREAS, the parties have negotiated to resolve the outstanding issues between them and enter into this Agreement in order to fully and finally resolve the issues between them as it relates to the Solar Facility Project.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.
2. Forefront agrees to the following:
 - a. To develop the Solar Facility Project on the Property as shown on the site plan in **Exhibit A**;

- b. To enhance the landscape buffer previously proposed along the viewshed onto the Property from Old York Road as shown on **Exhibit A**;
 - c. To provide for a two-year inspection of the proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
 - d. To reduce the acreage of the special exception to no greater than seventeen (17) acres and to reduce the total number of proposed solar panels, as shown on the attached site plan in **Exhibit A**;
 - e. To prohibit the use of any barbed wire on the proposed chain link fence;
 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
- a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): Michael Smith

Name: Michael Smith

Title: President

Date: August 8, 2021

WITNESS:

SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL

Signature(By): _____

Name: _____

Title: _____

Date: _____

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): _____

Name: _____

Title: _____

Date: _____

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): *Lynne Jones*

Name: LYNNE JONES

Title: PRESIDENT

Date: 8-2-2021

WITNESS:

WITNESS:

WITNESS:

WITNESS:

LISA ARTHUR

Signature: *Lisa Arthur*
Date: 8/3/2021

EMMA ARTHUR

Signature: *Emma Arthur*
Date: 8/3/21

LYNNE JONES

Signature: _____
Date: _____

KATHLEEN PIEPER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

WITNESS:

WITNESS:

WITNESS:

WITNESS:

[Signature]

LISA ARTHUR

Signature: _____

Date: _____

EMMA ARTHUR

Signature: _____

Date: _____

LYNNE JONES

Signature: *[Signature]*

Date: 8.2.21

KATHLEEN PIEPER

Signature: *[Signature]*

Date: 8-2-2021

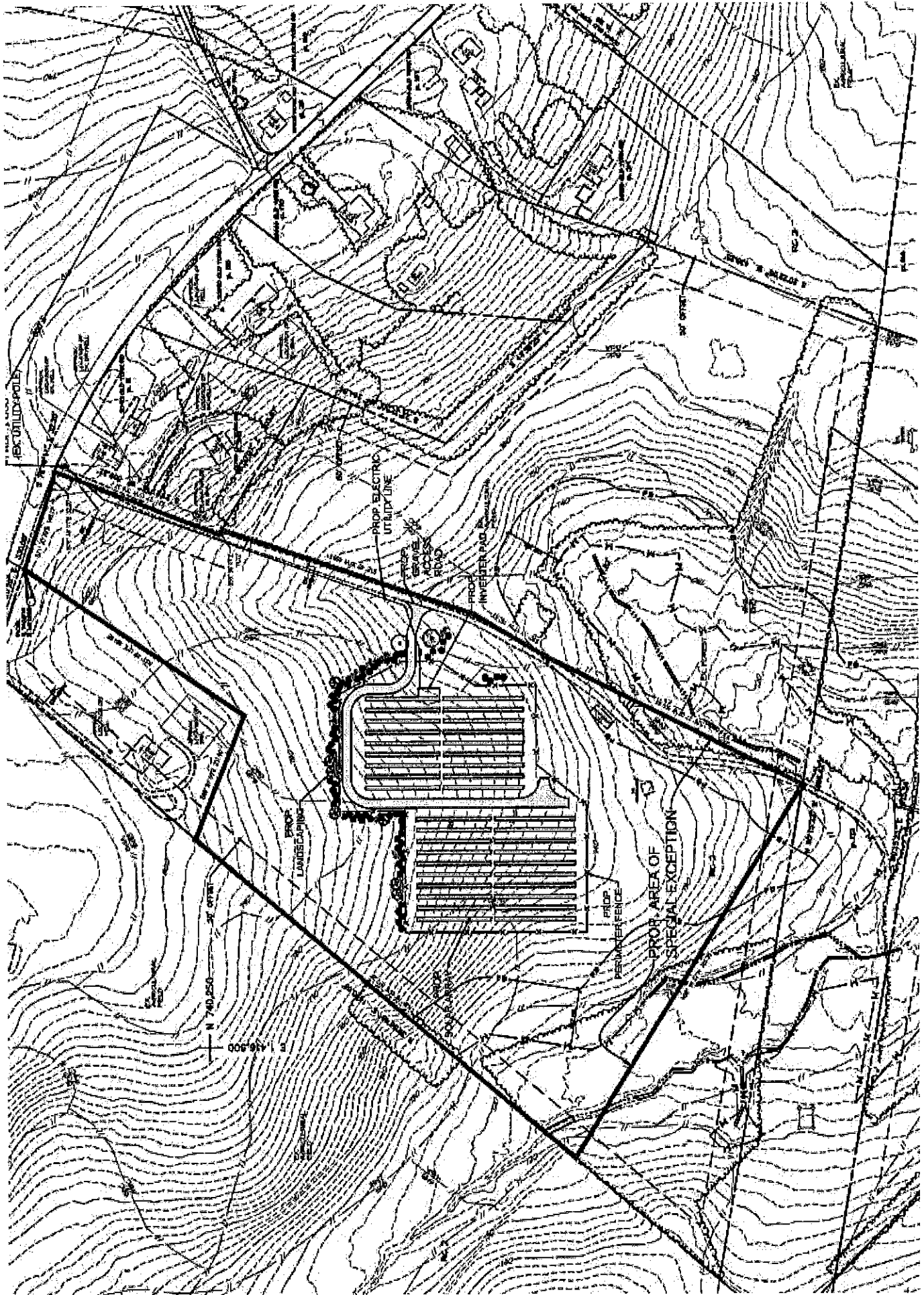
Approved as to content and form:

[Signature]

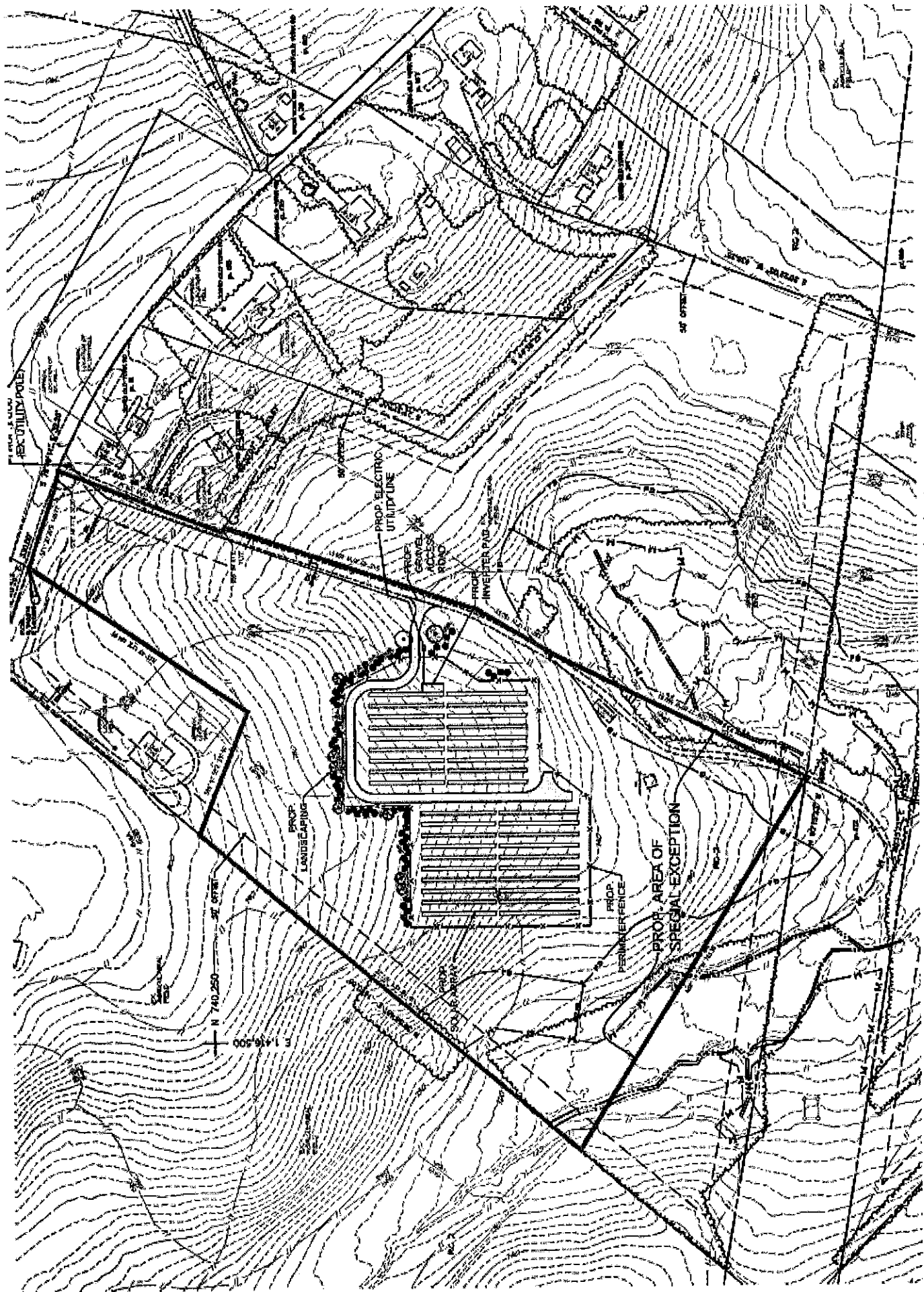
LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

Site Plan (attached)
Referred to herein as Exhibit A



Revised plan with landscaping 1/29/2021



Revised plan with landscaping 1/29/2021



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

September 28, 2021

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: *In the Matter of: The Farm, LLC – Legal Owner*
Forefront Power, LLC – Lessee
Case No.: 19-057-X

Dear Mr. Schmidt:

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,

A handwritten signature in cursive script that reads "Sunny Cannington Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: Dennis Danielczyk, Jr./The Farm, LLC
Brian Maliszewski/Forefront Power, LLC
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Office of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Sparks Glencoe Community Planning Council
Lisa Arthur
Emma Arthur
Lynne Jones
Kathleen Pieper

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)	*	
7th Election District	*	BOARD OF APPEALS
3 rd Council District	*	
The Farm, LLC	*	OF
Legal Owner	*	
Forefront Power, LLC	*	BALTIMORE COUNTY
Lessee	*	
	*	
Petitioners	*	
	*	
7th Election District	*	
3 rd Council District	*	

CASE NO: 2019-0057-X

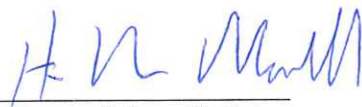
* * * * *

NOTICE OF WITHDRAWAL OF APPEARANCE

Please strike the appearance of H. Barnes Mowell as counsel on behalf of the Protestants in this case; Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

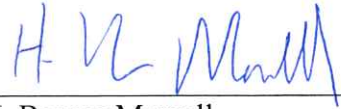
Undersigned counsel certifies that he mailed to each of the above Protestants the attached letter, at least five days before the filing of this Notice, advising them of his intention to withdraw from this case, and advising each of them to have another attorney enter their appearance, or to notify the Board of Appeals of their intention to proceed and appear before the Board, in proper person.




 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 22nd day of December 2020 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, 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

December 15, 2020

Sparks Glencoe Community Planning Council, Inc.
Box 937
Sparks, Maryland 21152

Lisa Arthur
Emma Arthur
19500 Burke Road
White Hall, Maryland 21161

Lynne Jones
815 Stablers Church Road
Parkton, Maryland 21120

Kathleen Pieper
4310 Beckleysville Road
Hampstead, 21074

Re: Petition for Special Exception for 20920 Old York Road

Ladies and Gentlemen:

In February 2019, I filed a Notice of Appeal on your behalf regarding the approval of the Petition for Special Exception for a solar facility at 20920 Old York Road. The case has been set for a three-day hearing before the Board of Appeals, beginning January 27, 2021, as shown on the enclosed Notice of Reassignment. As discussed in our recent e-mails, we have jointly agreed that I will not be involved further in this case. I will be filing a Notice with the Board of Appeals withdrawing my appearance. Each of you may have another attorney enter their appearance for you in the case. If you intend to proceed and appear at the hearing in proper person, you should send a Notice to the Board of Appeals to advise them of your intentions.

Thank you for your cooperation in this regard.

Very truly yours,



H. Barnes Mowell

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**

* Admitted in MD, PA, FL
** Admitted in MD, NC

ROBERT B. HAMILTON
NICOLE LAMBDIN
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
MARY G. LOKER
STEPHEN J. NOLAN

March 16, 2020



Sent via First Class Mail

Krysundra L. Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

**Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - 20920 Old York Road
Case No. 19-057-X**

Dear Ms. Cannington:

This is in response to your letter of February 26, 2020 regarding the above matter. As you know, proceedings before the Board were previously indefinitely postponed at the request of the Petitioner. The postponement was requested because of a contemplated revision to the layout of the proposed solar facility.

Please be advised that my clients, The Farm (property owner) and Forefront Power LLC (applicant) are now desirous of moving forward with the project and hereby request that the continuance previously granted be lifted and that this matter be scheduled for hearing before the Board. I am pleased to coordinate dates with you and Mr. Mowell (attorney of the Protestants/Appellants) if appropriate.

For your reference, I am enclosing a copy of the current site plan for this project. In order to address certain of the objections of the Protestants and for other reasons related to the capacity and function of the proposed facility, please note that the project has been "downsized" from its previous footprint. In lieu of four separate rows of solar panels, the proposal now indicates only two rows. Additionally, in order to meet Fire Department access requirements, an internal access road for emergency equipment has been relocated so that all panels are within a short distance thereof. This revised plan will be submitted to the Board at its de novo hearing and Petitioners will request that it be approved in connection with the Petition for Special Exception.

Krysundra L. Cannington

March 16, 2020

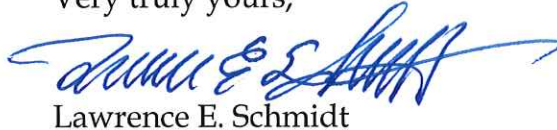
Page 2

Notwithstanding the modest downsizing of the proposal, the project is largely the same as originally submitted and approved by the ALJ. The area and location of the special exception within the property is the same. However, the "footprint" of the actual panel field is reduced in order to provide greater setbacks and buffers to adjacent properties.

As noted above, the attached site plan will be offered to the Board at its hearing as an evidentiary exhibit and Petitioners' request for approval will be of that plan. In that proceedings before the Board are de novo, I would request that the Board retain jurisdiction of this matter and not remand the matter to the ALJ. In addition to the de novo nature of this appeal, please note the at the relief requested is the same (i.e. a petition for special exception, there are no variances requested), the property and parties remain the same, the proposal is essentially the same as approved by the ALJ and that the changes reduce (and do not enlarge) the area of the facility and impacts of the project.

I appreciate and thank you for your patience with this matter. I hope that the Protestants will withdraw their opposition to this project in view of the efforts made by my clients to reduce its impact. However, I am certain that Mr. Mowell will advise of his position and I have copied him with this letter.

Very truly yours,

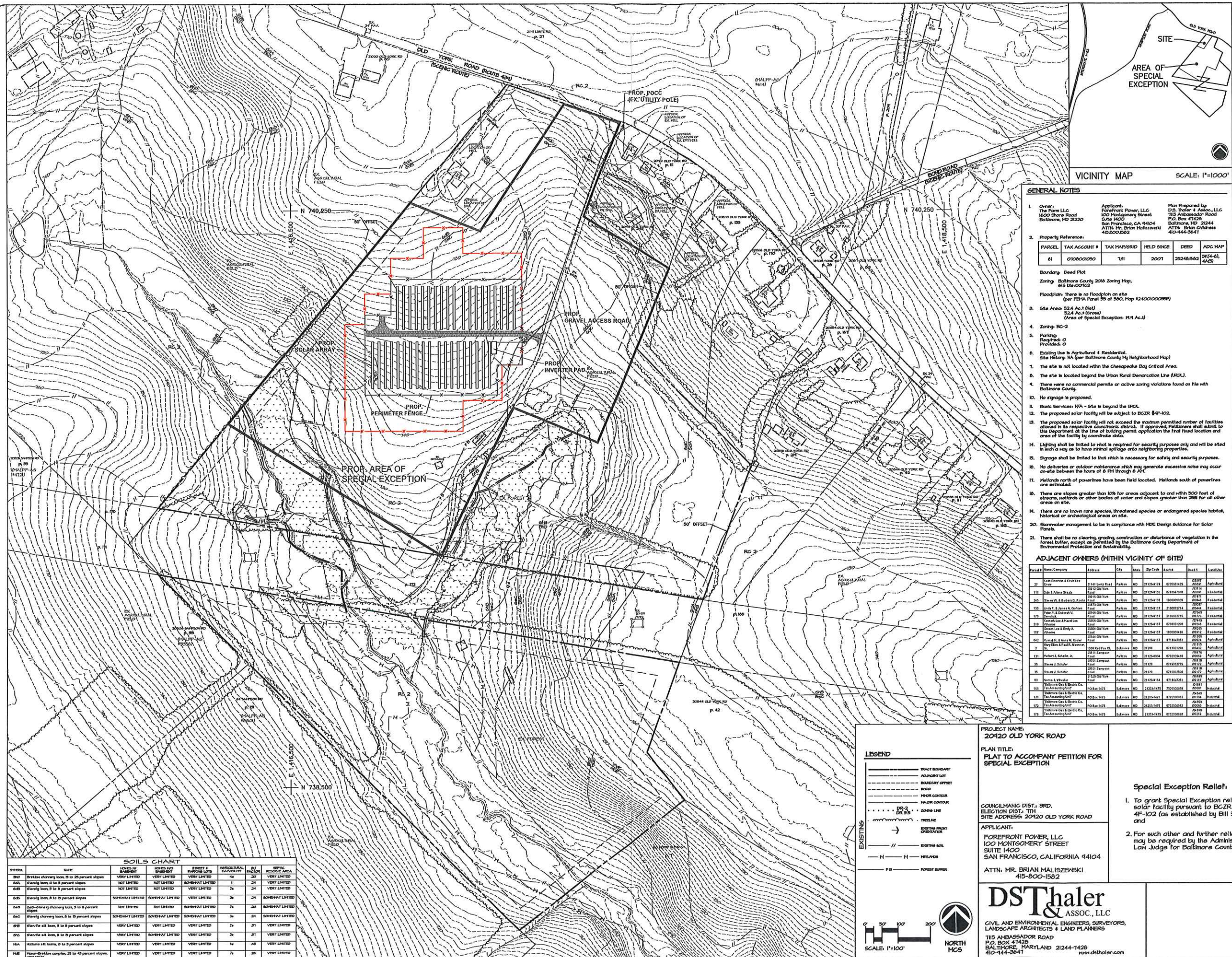
A handwritten signature in blue ink, appearing to read "Lawrence E. Schmidt", with a stylized flourish extending to the right.

Lawrence E. Schmidt

LES/am

Enclosure

cc: H. Barnes Mowell, Esquire
Andrew Brown, D.S. Thaler
Forefront Power, LLC



PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD

DATE: 2/13/2020
SCALE: 1"=100'
C.I.: 2'
PROJ. NO.: 04354
SHEET 1 OF 1



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

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

A handwritten signature in black ink that reads "Sunny Cannington".

Krysundra Cannington
Administrator

Duplicate original



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

April 30, 2019

NOTICE OF POSTPONEMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 23, 2019 and has been postponed by request of counsel. This matter will be rescheduled to later dates.

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

Notice of Postponement
In the matter of: The Farm, LLC
Case number: 19-057-X
April 30, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Pete Gutwald, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

Krysundra Cannington

From: Lawrence Schmidt <lschmidt@sgs-law.com>
Sent: Monday, April 29, 2019 3:04 PM
To: 'barney Mowell'; Appeals Board
Subject: RE: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Barney: Thank you for your courtesy.

Lawrence E. Schmidt | Partner
SMITH, GILDEA & SCHMIDT, LLC
600 Washington Avenue | Suite 200 | Towson, MD 21204 | (410) 821-0070
lschmidt@sgs-law.com | www.sgs-law.com

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this e-mail in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

From: barney Mowell [<mailto:barneymowell@hotmail.com>]
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: barney Mowell <barneymowell@hotmail.com>
Sent: Monday, April 29, 2019 3:01 PM
To: Appeals Board; Lawrence Schmidt, Esquire
Subject: The Farm, LLC; 20920 Old York Road, case no: 2019-057-X

Ms. Cannington: Thanks for your e-mail. The Protestants do not oppose the Petitioners' request for postponement. Barney Mowell

Krysundra Cannington

From: Appeals Board
Sent: Monday, April 29, 2019 12:05 PM
To: 'barneymowell@hotmail.com'
Cc: Lawrence Schmidt, Esquire
Subject: The Farm, LLC 19-057-X
Attachments: Petitioner's request for postponement.pdf

Good afternoon Mr. Mowell,

Attached please find Mr. Schmidt's request for postponement which was received in our office on Friday.

Please advise if you have any objection to this request for postponement.

Thank you,

Sunny

Krysundra "Sunny" Cannington
Administrator
Board of Appeals of Baltimore County
410-887-3180

Confidentiality Statement

This electronic mail transmission contains confidential information belonging to the sender which is legally privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action based on the contents of this electronic mail transmission is strictly prohibited. If you have received this electronic mail transmission in error, please immediately notify the sender.

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH

*Admitted in MD, FL, PA

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS

of counsel:

EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

April 26, 2019

Sent via Hand Delivery

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: **Legal Owner:** **The Farm, LLC**
 Lessee: **Forefront Power, LLC**
 Property: **20920 Old York Road**
 Case No. **2019-057-X**



Dear Ms. Cannington,

This is in reference to the above matter currently scheduled for hearing before the Board on May 9, 2019 and May 23, 2019. This matter is for the consideration of a petition for special exception to permit a proposed solar facility. The petition was filed by my client, Forefront Power, LLC, as lessee. The property owner, The Farm, LLC, is designated as the co-petitioner. Forefront Power, LLC is an energy company and will construct and operate the proposed facility.

My client has recently advised that they are contemplating the transfer/sale of their rights under the current lease to a different entity. This entity would be another entity that is experienced in the development and operation of solar facilities. Under the circumstances, I am hereby requesting a postponement of the May 9th and May 23rd hearing dates and request that the matter be reset after August 1, 2019. Although the anticipated project would largely remain the same, the parties involved would like to have the transaction finalized before a hearing. I also think it appropriate that the ultimate developer and operator of the facility participate at the Board's hearings so as to explain the operational details. Insofar as my calendar for a re-scheduling, I am available August except for the following dates: August 2, 14, 15 and 16.

Ms. Krysundra L. Cannington, Administrator

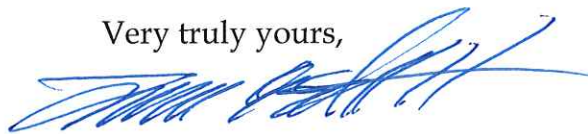
April 26, 2019

Page 2

This postponement will not be prejudicial to any parties. The petition for special exception was granted below and thus the delay occasioned by this request does not prejudice the opponents to the petition. Actually, it is arguably beneficial to them as the project, if approved, will not be constructed until later than initially anticipated. I have copied their counsel with this correspondence. I appreciate the Board's attention to this request and please do not hesitate to contact me should you have any questions.

Thank you for your courtesy.

Very truly yours,



Lawrence E. Schmidt

LES/am

cc: H. Barnes Mowell, Esquire



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

March 19, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 16, 2019. Day 2 of this matter has been changed due to a scheduling conflict. This matter is now

ASSIGNED FOR: **MAY 9, 2019, AT 10:00 A.M. – Day 1**
MAY 23, 2019, AT 10:00 A.M. – Day 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.
- 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.

Amended Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 19, 2019
Page 2

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

**Krysundra "Sunny" Cannington
Administrator**

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

March 5, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-057-X

The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR:

MAY 9, 2019, AT 10:00 A.M. – Day 1
MAY 16, 2019, AT 10:00 A.M. – Day 2

LOCATION:

Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE:

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- Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.
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For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 5, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

February 6, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204



RE: **APPEAL TO BOARD OF APPEALS**
Petition for Special Exception - Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

Please be advised that an appeal of the above-referenced case was filed in this Office on February 5, 2019. 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,
A handwritten signature in black ink, appearing to read "JEB".
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

c: Baltimore County Board of Appeals
People's Counsel
H. Barnes Mowell, Esq., 16925 York Road, Monkton, Maryland 21111
James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

APPEAL

Petition for Special Exception
(20920 Old York Road)
7th Election District – 3rd Councilmanic District
Legal Owners: The Farm, LLC
Lessee: Forefront Power, LLC
Case No. 2019-0057-X

Petition for Special Exception (August 20, 2018)

Zoning Description of Property (April 16, 2018)

Certificate of Posting – 1st Posting October 27, 2018 (Linda O’Keefe)
2nd Posting November 17, 2018 (Linda O’Keefe)

Newspaper Advertisement – October 31, 2018 – The Daily Record

Notice of Zoning Hearing – September 26, 2018

People’s Counsel Entry of Appearance – August 29, 2018

Zoning Advisory Committee Comments

Petitioner’s Sign-in Sheets – 1 Sheet

Citizen’s Sign-in Sheets- 1 Sheet



Petitioner(s) Exhibits –

1. Plan
2. Aerial w/landscaping
3. 3“A”-3“O” Photos
4. Aerial plan w/site boundary
5. Zoning Description

Protestant(s) Exhibits –

1. Aerial photo/map w/environmental features
2. Photos of Animals on Fences
3. 11-20-2018 Sparks-Glencoe letter

Miscellaneous (Not Marked as Exhibits)

Administrative Law Judge Order and Letter (GRANTED with Conditions – November 27, 2018)

Motion for Reconsideration- December 20, 2018 by H. Barnes Mowell

Petitioner’s Response to Motion For Reconsideration- January 4, 2019 by Lawrence E. Schmidt

Administrative Law Judge Order and Letter on Motion For Reconsideration (DENIED-January 8, 2019)

Appeal Notice, Letter & Receipt received from H. Barnes Mowell, Esq. – February 5, 2019

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **174813**

Date: **2/5/19**

Rev
Source/
Sub
Rev/

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				400

Total: **400**

Rec From: **H. BARNES Maxwell**

For: **Office of Administrative Hearings (CD OR APPEAL)**

CASE NO. **2019-00571-X**

ADDRESS OR PROJECT: **20920 Old York Rd**

HEARING DATE(S): **11-20-18**

CHECK # **1500 E 6297**

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 2/07/2019 2/05/2019 13:20:59 1

REC WSD1 WALKIN LJR
 >>> RECEIPT N 832443 2/05/2019 OFLN

Dept 5 528 ZONING VERIFICATION
 CRD. 174813

Receipt Tot \$ 400.00

400.00 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
February 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 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

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road)
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

CASE NO: 2019-0057-X

* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 ^{5th} day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, 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
February 5, 2019



Michael Mohler, Acting 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: 2019-0057-X

Dear Mr. Mohler:

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 \$400 filing fee.
Should you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Barnes Mowell".

H. Barnes Mowell

A handwritten note in black ink on a separate piece of paper. It reads: "Hi Sunny & Tammy - I just filed this appeal & am dropping this off to you. Lynne Jones".

Hi Sunny & Tammy -
I just filed this.
appeal & am dropping
this off to you.
Lynne Jones



cc: Baltimore County Board of Appeals
Office of Administrative Hearings

IN RE: PETITION FOR SPECIAL EXCEPTION *
(20920 Old York Road)
7th Election District *
3rd Council District *
The Farm, LLC *
Legal Owner *
Forefront Power, LLC *
Lessee *

Petitioners

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR

BALTIMORE COUNTY

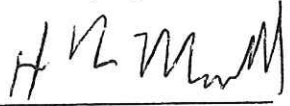
CASE NO: 2019-0057-X

* * * * *

NOTICE OF APPEAL

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Emma Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074.

Please note the appeal by the above-named entity 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 November 27, 2018, and the Order denying the Motion to Reconsider that decision dated January 8, 2019.


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 5th day of February 2019 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 8, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

H. Barnes Mowell, Esq.
H. Barnes Mowell, P.A.
16925 York Road
Monkton, MD 21111

RE: **MOTION FOR RECONSIDERATION**
Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Counsel:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20920 Old York Road) *
7th Election District * OFFICE OF
3rd Council District *
The Farm, LLC * ADMINISTRATIVE HEARINGS
Legal Owner *
Forefront Power, LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * **Case No. 2019-0057-X**

* * * * *

ORDER ON PROTESTANTS'
MOTION FOR RECONSIDERATION

Protestants have filed a motion for reconsideration wherein they raise two (2) arguments:
(1) Lessee Petitioner's charter was forfeited on the date of the zoning hearing, and as such the petition should be dismissed; and (2) the size of the special exception area is too large. These arguments are addressed below.

Entity Status

The Lessee in the above-case, which would operate the solar facility, is Forefront Power, LLC. Based on the exhibits attached to Protestants' motion, its entity status was forfeited on November 19, 2018, and the hearing in this case was the next day, November 20, 2018.

Petitioner initially contends (but does not provide any case or statutory authority for the proposition) the forfeiture statute is only applicable in a judicial proceeding. In similar settings (i.e., standing, doctrine of res judicata) Maryland cases have indicated that such rules apply to both judicial and quasi-judicial proceedings. As such, I do not believe this argument has merit.

But Petitioners also note that the legal owner of the subject property (The Farm, LLC) was also a petitioner in the zoning case, and that entity apparently was and is in good standing. As such, I agree with Petitioners that whether or not the Lessee's charter was forfeited is immaterial

ORDER RECEIVED FOR FILING

Date 1-8-19

By 192

in the circumstances of this case; two (2) petitioners signed the zoning petitions even though the legal owner could have filed and prosecuted the case on its own.

Size of Special Exception Area

Protestants contend the size of the special exception in this case is excessive and in support of that argument they submit a chart (attached to the Motion as Exhibit 2) comparing the sizes of special exception areas in recent solar facility cases. As Petitioners note, this evidence was not presented at the hearing and cannot be considered in connection with the motion.

But more to the point, the size of the special exception area was considered at the hearing and Petitioners summarize the testimony of their witness (Kelsey Crane) that addressed this issue. As such, I do not believe the motion presents any "new or different factual situation" which would justify reaching a different conclusion.

WHEREFORE, IT IS ORDERED this 8th day of **January, 2019**, by this Administrative Law Judge, that the Protestants' Motion for Reconsideration, be and is hereby DENIED.

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/dlw

ORDER RECEIVED FOR FILING

Date 1-8-19

By kw



IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR
* BALTIMORE COUNTY
* Case No.: 2019-0057-X

* * * * *

Petitioner's Response to Motion For Reconsideration

The Farm LLC (Legal Property Owner) and Forefront Power, LLC (Lessee), hereinafter referred to collectively as the "Petitioners", through their attorneys, Lawrence E. Schmidt, and Smith, Gildea and Schmidt LLC, hereby files this response to the Motion for Reconsideration of the Administrative Law Judge's ("ALJ") Opinion and Order dated November 27, 2018 filed herein by Sparks Glencoe Community Planning Council, Inc., Kathleen Pieper, and Lynne Jones, hereinafter the "Protestants", and state as follows:

Protestants' Motion for Reconsideration sets forth two issues: (1) a claim that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and thus the ALJ's Order should be stricken and/or the matter reheard; and, (2) the size of the special exception area is larger than is required, and should be reduced. For the following reasons, Protestants' Motion for Reconsideration is legally insufficient and should be denied.

**I. Lessee's Purported Forfeiture Of Its Corporate Charter
Does Not Require Dismissal Of Owner's Petition For Special Exception
and/or the striking of the ALJ's Opinion and Order**

Respondents' Motion for Reconsideration asserts that the Lessee (identified in the petition as Forefront Power, LLC) is no longer in good standing with the Maryland State Department of Assessments and Taxation ("SDAT") and this failure justifies striking the ALJ's Opinion and Order and/or remanding of the petition for further proceedings. This argument is manifestly improper.

The zoning petition form requires that the property owner be identified and that a signature from the property owner be secured. In fact, the petition contains an oath and affirmation clause whereby the owner must expressly declare that it is the "legal owner(s) of the property which is the subject of this/these Petition(s)." The property owner in this case is identified as "The Farm LLC" and that entity is a valid Maryland LLC and in good standing. "The Farm LLC" is the title owner of the property and is rightfully and appropriately designated/identified in the petition. Therefore, there is a proper petitioner to prosecute and maintain the Petition for Special Exception at issue.

Zoning regulates the use of land, and does not relate to the status or identity of a lessee or contract purchaser. It is axiomatic that zoning "runs with the land" and it is thus the identity and consent of the property owner to the filing of the petition that is paramount and necessary. As a practical matter, it is customary to predicate the application on a particular use, rather than for a particular lessee or contract purchaser. The Protestants objections are mindful to the situation where relief is sought by a property owner who proposes leasing its property for a particular use (e.g. a fast food

restaurant, i.e. McDonald's) and then terminates that lease and enters into a new lease for an identical use through a different lessee (i.e. Burger King). Such a scenario would not invalidate a petition brought by the owner. For so long as the proposal is the same, the relief sought does not change and the owner moves the petition; then the identity of the lessee is meaningless. Thus, whether Forefront Power, LLC or some other entity leases the property, the issue is the same.

Moreover, the identified Lessee (Forefront Power, LLC) was a Maryland LCC in good standing at the time the Petition for Special Exception was filed. The Lessee is a subsidiary of a California entity (Forefront Power) that conducts business related to energy use across the United States. It established Forefront Power LLC as a Maryland entity in order to begin operations in this state. It intends to create an entity for each project in Maryland (there are numerous solar projects proposed by Forefront in Baltimore County and other Maryland jurisdictions). During and subsequent to proceedings before this Court, Forefront Power, LLC's charter was or about to be forfeited with SDAT. While a business entity is required to maintain its good standing, Petitioners submit a failure in that regard was not deliberate and appropriate paperwork to correct this has been filed with SDAT. In fact, the SDAT website (copy attached) indicates that Forefront Power, LLC filed a personal property tax return for the calendar year 2018 on December 17, 2018 and changed its resident agent on December 4, 2018. These filings were accepted by SDAT and evidence that the entity is not abandoned. Forefront Power, LLC's charter will be reinstated in the near future or a new entity specific to this project will be formally created.

Finally, the case cited in support of the Motion is inapposite. That case cited deals with a matter pending in a court of law, not in an administrative forum. The case is specific to an entity's authority to prosecute a claim in a court of law, not a quasi judicial administrative setting. As importantly, and as indicated hereinabove, there is a valid entity identified in the Petition that is prosecuting this case. That entity, The Farm LLC, is in good standing and is a valid business entity.

II. The Size Of The Special Exception Area Was Properly Considered At The ALJ Hearing

Respondents' Motion for Reconsideration reiterates concerns regarding the size of the special exception area. However, the topic of the special exception area was raised by the community at the hearing; thus this issue has already been considered. Even so, Respondents claim the ALJ erred when he in fact considered and evaluated the size of the special exception area.

As articulated by this Court before, a motion for reconsideration is properly granted only when "some new or different factual situation exists that justifies a different conclusion." *Calvert County v. Howlin Realty, Inc.*, 364 Md. 301, 325 (2001). In this case, the Respondents have not identified "some new or different factual situation." The Protestants were present at the hearing and were given the full opportunity to participate thereat and offer whatever testimony, evidence and argument they desired. Protestants' testimony regarding the size of the special exception has already been considered within the body of evidence offered at the initial hearing. Now, having

failed to convince this Court at the hearing, Protestants asks for yet one more chance, but have provided no viable reason why the Court should do so.

Notwithstanding above, Kelsey Crane, Assistant Project Manager for Forefront Power, LLC, testified to the proposed solar facility. Pursuant to Baltimore County Zoning Regulations ("B.C.Z.R.") § 102.A.1., the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts ... of electricity." B.C.Z.R. provides no limitation as to the acreage amount necessary for the megawatt output. According to Ms. Crane's testimony, there are numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments. Petitioners must do so in keeping with the above-quoted provision.

Protestants attempt to breathe life into its position by referencing the size of acres of other properties proposed for solar facilities in unrelated special exception cases. By doing so, Protestants inadvertently support Ms. Crane's testimony and the concept that every solar facility special exception area is unique to the property and developer.

Under BCZR § 502.1(A), a special exception use is prohibited if it is "detrimental to the health, safety or general welfare of the locality involved." *Schultz v. Pritts*, 291 Md. 1 (1981). In *Schultz*, the Court of Appeals held 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 [ALJ] that the

proposed use would be conducted without real detriment to the neighborhood ... he has met his burden." 291 Md. 1, 11, 432 A.2d 1319, 1325 (1981).

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*, 152 A.3d 765 (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. As testified to at the hearing, the proposed solar facility use satisfied the standards set forth in B.C.Z.R. § 502.1 and does not have detrimental effects above and beyond the inherent ones ordinarily associated with such a use. Thus, as a matter of law, Petitioner has established a prima facie case of entitlement to the special exception.

Additionally, in every Baltimore County zoning case, the petition for relief is circulated to several county agencies seeking comment and input concerning the propriety of the zoning request. By memorandum dated 11/16/18, none of the reviewing agencies recommended decreasing the special exception area. Had there been a concern with the special exception area, such a concern would have been noted.

As apparent from Ms. Crane's testimony, there are a variety of factors which inform the design and layout of a solar facility. Protestants have offered no compelling

reason why it should receive another bite at the apple and, for that reason, its Motion for Reconsideration should be denied.

Finally, and as importantly, the new “evidence” offered has no relevance to the facts of this case. This evidence is a recitation of claims made by Protestants in other cases. That evidence is not proper evidence in the record of the instant case. It simply has no relevance to the instant proceedings and should not be relied upon as a basis for any reconsideration.

Conclusion

In summary, a Motion for Reconsideration serves a limited function in quasi-judicial hearings. While the Motion certainly elaborates upon the arguments Protestants made at the hearing, it does not present any new or additional facts. In *Calvert County v. Howlin Realty, Inc.*, the court held that an agency (like the OAH) “may reconsider an action previously taken and come to a different conclusion upon a showing that ... some new or different factual situation exists that justifies the different conclusion.” In this case, the Petitioners have not identified “some new or different factual situation.” Zoning is not a plebiscite, and cases cannot be decided based on the number of people favoring versus opposing a project. *Neuman v. City of Baltimore*, 23 Md. App. 13, 16 (1974) (“[z]oning should never be allowed or disallowed on the basis of a plebiscite of the neighborhood”). Special exceptions are in fact presumptively proper uses. The Owner in this case presented testimony from qualified experts that satisfied the elements required for a special exception for a solar facility. Because there are

insufficient reasons for the ALJ to reverse his decision, Protestants' Motion for Reconsideration should be denied

Respectfully submitted,

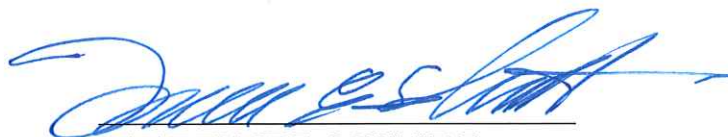


LAWRENCE E. SCHMIDT
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
(410)821-0070
lschmidt@sgs-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of **January, 2019**, a copy of the foregoing Response to Protestants' Motion for Reconsideration was mailed first-class, postage prepaid to:

H. Barnes Mowell
16925 York Road
Monkton, MD 21111
Protestants' Counsel



LAWRENCE E. SCHMIDT

Maryland Business Express

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Scheduled Maintenance

Online filing of your **Business Annual Report/Personal Property Tax Returns** will not be available starting on December 30th, 2018, through Friday, January 4th, 2019, due to routine maintenance. Any Filings started, but not completed, prior to December 30th will not be able to be completed, and will be removed from your account. If you started a return, either for 2018 or previous tax year, but did not submit before December 30th, you will need to wait until after January 4, 2019, to create and submit your prior year returns online. We apologize for any inconvenience.

FOREFRONT POWER, LLC: Z17731399

General Information

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Annual Report/Personal Property

Filing History

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DEPT. ACTION - FORFEITURE 💬	11/19/2018 10:52:00 PM			
🔍 RESIDENT AGENT CHANGE OF ADDRESS	6/19/2017 8:30:00 AM			3
🔍 REGISTRATION	1/17/2017 4:03:00 PM			3

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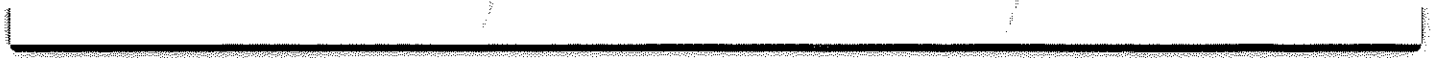
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RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed



Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 80 BUSINESS CODE _____

217731399

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging/Converting _____

Surviving/Resulting _____



1000362011684893

ID # 217731399 ACK # 1000362011684893
PAGES: 0002
FOREFRONT POWER, LLC

12/04/2018 AT 03:54 P WO # 0004913385

New Name _____

FEES REMITTED

Base Fee: 25
Org. & Cap. Fee: _____
Expedite Fee: 50
Penalty: _____
State Recordation Tax: _____
State Transfer Tax: _____
Certified Copies _____
Copy Fee: _____
Certificates _____
Certificate of Status Fee: _____
Personal Property Filings: _____
NP Fund: _____
Other: _____

TOTAL FEES: 75

Credit Card _____ Check ☒ Cash _____

_____ Documents on _____ Checks

Approved By: 15

Keyed By: _____

COMMENT(S):

_____ Change of Name
_____ Change of Principal Office
☒ Change of Resident Agent
☒ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent
and Resident Agent's Address
_____ Change of Business Code

_____ Adoption of Assumed Name

_____ Other Change(s)

Code _____

Attention: _____

CSC-LAWYERS INCORPORATING SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

CUST ID: 0003696808
WORK ORDER: 0004913385
DATE: 12-06-2018 12:33 PM
AMT. PAID: \$925.00

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FOREFRONT POWER, LLC: Z17731399

General Information

Filing History

Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2019		No		
2018	12/17/2018	No		
2017		No		
2016		No		
2015		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2019	0	0	
2018	0	0	
2017	0	0	
2016	0	0	

Asmt. Year

County Base

Town Base

Date Certified

2015

0

0

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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



December 20, 2018

Office of Administrative Hearings
105 W. Chesapeake Avenue
Suite 103
Towson, Maryland 21204

via Hand-Delivery

Re: Petition for Special Exception
Case No: 2019-0057-X
Property: 20920 Old York Road

Ladies and Gentlemen:

I have enclosed, for filing, a Motion for Reconsideration of the Opinion and Order in this case dated November 27, 2018.

Should you have any questions, please contact me.

Very truly yours,

H. Barnes Mowell

cc: Lawrence E. Schmidt, Esquire

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR
<i>Lessee</i>		
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO: 2019-0057-X

* * * * *

MOTION FOR RECONSIDERATION

Please enter my appearance as counsel on behalf of the Sparks Glencoe Community Planning Council, Inc., Box 937, Sparks, Maryland 21152, Lisa Arthur, 19500 Burke Road, White Hall, Maryland 21161, Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120, and Kathleen Pieper, 4310 Beckleysville Road, Hampstead, 21074, Protestants, who submit the following Motion for Reconsideration of the Opinion and Order in this case, pursuant to Rule 4K of the Zoning Commissioner's Rules of Procedure. The Protestants raise two issues for reconsideration: 1). It appears that the Lessee's right to do business had been forfeited as of the date of the hearing in this case, and it should not have been allowed to prosecute its claim, and, 2). The size of the special exception area is larger than is required, and should be reduced.

Forfeited Entity

The solar company that filed for a Special Exception in this case is Forefront Power, LLC. According to the Maryland Department of Assessments and Taxation (SDAT) website, and as shown on the attached Exhibit 1, Forefront Power LLC ("Forefront") is a limited liability company formed in Delaware in December 2016. In January 2017, Forefront registered with the SDAT to do business in the state of Maryland, and listed the nature of its business as "Assume and enter into contracts associated with solar power projects." Registration in Maryland

triggered the requirement to file property returns each year with the Maryland SDAT. Forefront failed to file its property return for 2018, and, as a result, the entity was forfeited on November 19, 2018, according to the SDAT website. See attached Exhibit 1.

The hearing before the Administrative Law Judge for this case was held on November 20, 2018. At that hearing, Forefront put on evidence, called witnesses, and prosecuted a case in furtherance of its request to install a solar facility at 20920 Old York Road. Section 4A-911(d) of the Corporations and Associations Article of the Annotated Code of Maryland, however, precludes prosecuting such a claim. Under that statute, an LLC which fails to file its annual report is forfeited, and its “right to do business in Maryland and the right to the use of the name for each limited liability company is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.”

The meaning of that language was discussed in Price v. Upper Chesapeake Health Ventures, 192 Md. App. 695 (2010). In Price, a Maryland LLC filed suit at a time when it was a forfeited entity, for failure to file a personal property tax return for 2005. For that reason, the case was dismissed in the Circuit Court, and the LLC appealed. The Court of Special Appeals began by noting the language in a related statute: “C&A 4A-920 provides that a contract executed or an act performed by the LLC after the C&A 4A-911 forfeiture is valid, and the LLC may defend an action in court.” Price at 707. From that, the Court reasoned that a forfeited LLC cannot file or maintain an action:

“Nevertheless, with respect to court proceedings, the statute expressly provides that a forfeited entity may only *defend* an action in court. The negative implication of such language, and the sweep of the “doing business” and name “using” prohibition is that the company may not *file or maintain* a lawsuit after its rights have been forfeited.” Price at 707-708.

The Court held that “an LLC whose rights have been forfeited for tax failures still exists as an entity, but may only defend an action in court, not prosecute one.” Price at 709. The Court

of Special Appeals affirmed the Circuit Court's dismissal of the case. For the same reason, Forefront should not have been permitted to prosecute its case before the Administrative Law Judge. Forefront's lack of standing to prosecute a case was fatal to the jurisdiction of the administrative proceeding, and the case should have been dismissed at the hearing on November 20th. See Cassidy v. County Board of Appeals of Baltimore County, 218 Md. 418, 422 (1958). What has been done to date is void for lack of jurisdiction, and that issue may be raised if the case moves forward to the Board of Appeals and Circuit Court. The only remedy, at this point, is to remand the case for a new hearing before the Administrative Law Judge. As of today's date, Forefront Power LLC remains a forfeited entity, and its right to do business in Maryland, and the right to the use of that name, is still forfeited. See attached Exhibit 1.

Size of Special Exception Area

Section 4F-102(B) of the Solar Facilities Law 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."

Kathleen Pieper, a Baltimore County resident, has examined this issue, and has testified in other solar cases before the Board of Appeals. She has charted the special exception acreage required to produce one megawatt of electricity for twelve proposed projects in Baltimore County. See attached Exhibit 2. She found that the project at 10790 Raphel Road, for example, proposed to produce one megawatt on four acres. At the other end of the chart, the 632 Freeland Road project needs 9.5 acres to produce one megawatt. In the instant case, a remarkable 19.9 acres are designated as the special exception area, to produce only .825 megawatts of electricity.

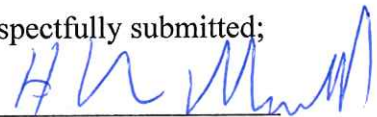
Why do the Petitioners in this case need almost 20 acres to produce less than one megawatt when it can be done on Raphel Road on 4 acres?

4F-102(B)(1) is a specific requirement included in the new solar law to only allow efficient solar arrays in Baltimore County. Land in the County may only be allocated to that area needed to create 2 megawatts, or, in this case, .825 megawatts. Poorly designed systems, and systems with inefficient panels that take up more land than is needed, should not be allowed. It appears that the Petitioners have such a system in mind. Their proposal should either be denied outright, or re-worked to take up less land in Baltimore County.

In another solar case, such a decision was made at the administrative hearing. In Case Number 2017-0108-X, concerning the property at 20450 Middletown Road, Bluefin Origination 2, LLC proposed to utilize 18.73 acres for a solar facility. After a comparison of the land needed in other solar cases to produce 2 megawatts, the Order granted the special exception, but reduced the special exception area from 18.73 acres to 13 acres. See attached Exhibit 3.

For the foregoing reasons, the Protestants respectfully request that the Opinion and Order in the instant case be reversed, and the case either be dismissed, or remanded for a new hearing before the Administrative Law Judge. In the alternative, the Special Exception area should be reduced to 4 acres, in keeping with the statutory requirement that the land be limited to only the acreage needed to produce the specified megawatts of electricity.

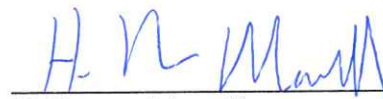
Respectfully submitted;



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 20th day of December 2018 to Lawrence E. Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204.


H. Barnes Mowell



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2 businesses found.

Department ID	Business Name	Status	View Business Details
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Z17747379	FOREFRONT POWER DEVELOPMENT LLC	Active	View Business Details

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FOREFRONT POWER, LLC: Z17731399

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General Information

Department ID Number: Z17731399

Business Name: FOREFRONT POWER, LLC

Principal Office: 13738 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Resident Agent: CSC-LAWYERS INCORPORATING
SERVICE
COMPANY
7 ST. PAUL STREET
SUITE 820
BALTIMORE MD 21202

Status: FORFEITED

Good Standing: THIS BUSINESS IS NOT IN GOOD
STANDING

What does it mean if a business
entity is not in good standing or
forfeited?

» Order Certificate of Status

Business Type: FOREIGN LLC

Business Code: 20 ENTITIES OTHER THAN
CORPORATIONS

Date of Formation/ Registration: 01/17/2017

State of Formation: DE

Stock Status: N/A

Close Status: N/A

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DEPT. ACTION - FORFEITURE 💬	11/19/2018 10:52:00 PM			
🔍 RESIDENT AGENT CHANGE OF ADDRESS	6/19/2017 8:30:00 AM			3
🔍 REGISTRATION	1/17/2017 4:03:00 PM			3

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General

THE ENTITY WAS FORFEITED FOR FAILURE TO FILE PROPERTY RETURN FOR 2018.

X Close

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DEPT ACTION - FORFEITURE	11/19/2018 10:52:00 PM			
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Incorrect Forfeiture Date: A number of our customers recently received a Final Forfeiture Letter from SDAT. This letter, with a mailing date of 10/16/2018, contained an Incorrect Forfeiture Date. The correct date your entity will be forfeited will be **12/17/2018**, with an effective date of 10/16/2018. We apologize for any confusion the incorrect date may have caused.

Please see our FAQs for additional information [HERE](#).

FOREFRONT POWER, LLC: Z17731399

General Information

Filing History

Annual Report/Personal Property

Annual Report/Personal Property

Mailing Address: FOREFRONT POWER, LLC
13736 RIVERPORT DRIVE
MARYLAND HEIGHTS MO 63043

Annual Report/Personal Property Tax Filings

Asmt. Year	Date Filed	Extension	Penalty Amount	Date Penalty Paid
2018		No		
2017		No		
2016		No		
2015		No		
2014		No		

Personal Property Assessments Summary (Select year to view details)

Asmt. Year	County Base	Town Base	Date Certified
2018	0	0	
2017	0	0	

State Department of Assessments and Taxation

LIMITED LIABILITY COMPANY REGISTRATION (FEE \$100.00) (For non-Maryland Limited Liability Company)

This document must be accompanied by written proof of existence from the home state, equivalent of a Certificate of Good Standing

1) Full legal name in home jurisdiction Forefront Power LLC **AD**

2) Name it will use in Maryland if different from above

(Must include Limited Liability Company or LLC)

3) State of Formation Delaware

4) Date of Formation December 21 2016

5) Principal Office Address 13736 Riverport Drive Maryland Heights MO 63043

6) Nature of Business in Maryland Assume and enter into contracts associated with solar power projects

7) Name and Address (No P O Boxes) of Resident Agent for Service of Process in Maryland
The Corporation Trust Incorporated

351 West Camden Street Baltimore Maryland 21201

If no Resident Agent in Maryland is named or if the Agent cannot be found or served this Department is appointed as Resident Agent of this Limited Liability Company

Has this Limited Liability Company done business in Maryland prior to this registration?

Yes ☐

No ☒

(If yes an additional \$200 Penalty Must accompany this registration)

[Signature]
(Signed Authorized Person)

I hereby consent to my designation in this document as resident agent for this Limited Liability Company
The Corporation Trust Incorporated

By

[Signature]
(Signed Resident Agent)

Steven P Zimmer Asst Vice President

Room 801-301 West Preston Street - Baltimore Maryland 21201
Phone (410) 767 1350 - TTY Users call Maryland Relay 1 800 735 2258
Toll Free In MD 1 888 246 5941 - website <http://www.dat.maryland.gov>

CUST ID 0003506491
WORK ORDER 0004723068
DATE 01-18-2017 11 56 AM
AMT PAID \$2 745 00

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09/13
2017 JAN 17 2 4 03
ASSESSMENTS
& TAXATION

Delaware

The First State

Page 1

I, JEFFREY W BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "FOREFRONT POWER, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SEVENTEENTH DAY OF JANUARY, A D 2017

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE



6257299 8300

SR# 20170264665

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication 201879717

Date 01 17 17

RESOLUTION TO CHANGE PRINCIPAL OFFICE OR RESIDENT AGENT

The directors/stockholders/general partner/authorized person of

Forefront Power, LLC

(Name of Entity)

organized under the laws of Delaware passed the following resolution:
(State)

(Check applicable boxes)

☐ The principal office is changed from: (old address)

to: (new address)

☒ The name and address of the resident agent is changed from:

The Corporate Trust Incorporated

351 W Camden St, Baltimore, MD 21201

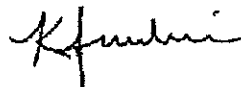
to:

CSC-Lawyers Incorporating Service Company

7 St Paul Street, Suite 820, Baltimore, MD 21202

I certify under penalties of perjury the foregoing is true.

Signed



Secretary or Assistant Secretary
General Partner
Authorized Person

I hereby consent to my designation in this document as resident agent for this entity.

CSC-Lawyers Incorporating Service Company

Signed By

Resident Agent

Name. ERIN RICHARDSON- AUTHORIZED REPRESENTATIVE

Title Assistant Secretary

Baltimore County Community Solar Projects

■ SE Acres/MW

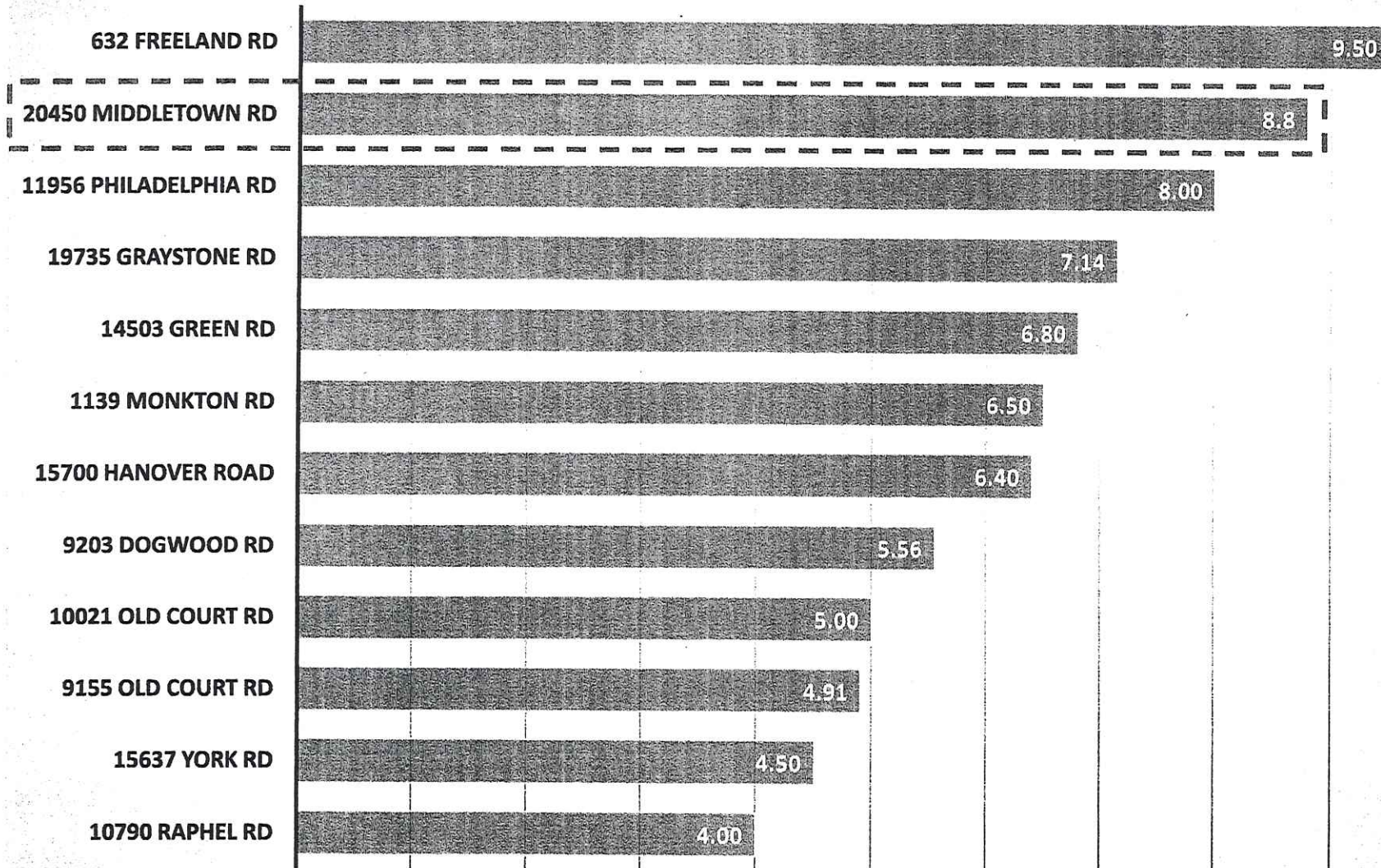


Exhibit 2

1/22/18

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20450 Middletown Road) *
6th Election District * OFFICE OF
3rd Council District *
David William Matthews * ADMINISTRATIVE HEARINGS
Legal Owner *
Bluefin Origination 2 LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * Case No. 2017-0108-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 David William Matthews, legal owner and Bluefin Origination 2, LLC, lessee ("Petitioners"). The Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") seeks approval to operate a solar facility at the subject property.

Jeffrey S. Webber and Parker Sloan with Cypress Creek Renewables, Tim Dertebaugh, Brian Conlon, and David L. Martin, L.A. with Martin & Phillips Design Associates, Inc., the firm that prepared the site plan, appeared in support of the petition. Christopher D. Mudd, Esq. and Patricia A. Malone, Esq. represented the Petitioners. Numerous citizens attended the hearing to express opposition to the request. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). Neither agency opposed the requests.

The subject property is approximately 70.979 acres and is split-zoned RC-2, RC-4, RC-5 and RC-8. The property is on Middletown Road, which is designated as a scenic route. The property was previously a farm, although with the exception of a small area there are no farming activities at the property presently. Petitioners propose to utilize 18.73 acres of the tract for a solar

facility. Petitioners would install between 8,500 to 9,000 solar panels, which would generate approximately 1.9 Mw of AC electricity.

The Lessee's zoning manager, Parker Sloane, testified his company is one of the largest solar providers in the United States, with projects in 12 states. Mr. Sloane testified the panels will be approximately 9 to 10 ft. in height and will rotate throughout the day to face the sun, although he noted the movement would be imperceptible. Like other solar proposals in Baltimore County, this facility would be unmanned and the operator will perform routine inspections 1 to 2 times per year.

Mr. Sloan stated the company had an alert system that would provide immediate notification of any problem or malfunction at the site. The witness testified his company used an "industry standard tool" and determined that there will be no concern with glare from the panels. Mr. Sloane indicated that only the inverter would generate noise, which he likened to a hair dryer. But given its location on the site he stated no noise at all would be heard from outside the property boundaries. In response to questions on cross-examination, Mr. Sloane testified Cypress Creek has completed over 200 projects since 2006, and that based on reports of appraisers hired by the company they have determined solar facilities do not have an adverse impact upon property values.

Many of the citizens had questions concerning the safety of the panels, and to address these issues the Petitioners presented testimony from Jeff Webber, an engineer employed by Cypress Creek. Mr. Webber, who was accepted as an expert, described the different types of silicon used in solar panels, and the attributes of each. He testified silicon is not a hazardous material and that the modules and the racks in which they are located are made of sand, aluminum, copper wire and steel. Mr. Webber stated only the transformer could "leak", and that if that occurred only mineral oil would be discharged. He said there was only an "extremely small risk" such a leak would

occur, and he said the hardwired monitoring system would alert the company immediately if that happened.

With regard to safety, Mr. Webber testified if the electric grid went down, the solar facility would immediately shut down. The witness stated the inverter would shut off within 2 seconds in such a scenario, and that while the panels would continue to function there would not be a current of electricity flowing and there would be no danger of electrocution. In response to questions on cross examination, Mr. Webber conceded economics drives how a facility is designed. He said while it might be possible (i.e., through use of higher efficiency panels) to generate 1.9Mw of electricity on less than 18 acres, the company would incur higher costs in doing so, which would make the project less profitable and/or economically unfeasible.

The final witness was David Martin, a registered landscape architect accepted as an expert. Mr. Martin prepared both the site plan (Exhibit 1) and the schematic landscape plan (Exhibit 8) for the project. He described the project and reviewed each of the requirements of B.C.Z.R. Article 4E, which he stated Petitioners satisfied. Mr. Martin opined the use proposed was "benign," and he testified Petitioners satisfied all requirements for a special exception. He also indicated that in connection with an earlier zoning case (No. 2000-0342-SPH) involving this property—which permitted the construction of a dwelling on an undersized parcel—environmental buffers were provided to Baltimore County to protect the water and forest resources on the site.

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. Martin opined Petitioners satisfied the requirements of B.C.Z.R. § 502.1 and applicable case law, which under *Attar* and similar cases established a *prima facie* case entitling them to the special exception. While the neighbors expressed many valid concerns with the facility, the issues they identified are inherent in the operation of a solar facility. As such, I do not believe that testimony can rebut the presumption provided by Maryland law that special exception uses are in the public interest.

Having said that, I believe the community raised one issue in particular which warrants further discussion; i.e., the size of the special exception area. The law states that the "maximum area permitted for a single solar facility is the amount of acreage that produces no more than two megawatts . . . of electricity." B.C.Z.R. §102.A.1. Based on Mr. Webber's testimony, there appear to be numerous variables involved in determining the appropriate size and design of a solar facility. As the witness noted, economics is certainly an important consideration. These facilities are operated by for-profit ventures, and Petitioners are entitled to maximize the return they receive on their land and investments.

But in this scenario, they must do so in keeping with the above-quoted provision. Similar solar facilities have been approved in several recent cases. What follows is the case number, special exception area and electricity generated:

2018-0047 (9 acres; 2Mw)
2018-0052 (6.4 acres; 1Mw)
2018-0072 (6 acres; 840Kw)
2018-0078 (9.8 acres; 2Mw)
2018-0095 (16 acres; 2Mw)

While the community opposed the request in each of the above cases (with the exception of No. 2018-0095, which was unopposed), this is the first case in which the acreage issue was squarely presented. Each of the petitioners in the above cases was (like the Lessee here) a for-profit entity, which means it is safe to assume the projects proposed were economically viable. I certainly understand there are a variety of factors which inform the design and layout of a solar facility, but based on the foregoing I believe a 13 acre special exception area would be sufficient to allow for the production of 2Mw of electricity, and such a restriction will be included below.

THEREFORE, IT IS ORDERED this 22nd day of January, 2018, by this Administrative Law Judge, that the Petition for Special Exception pursuant to Section 4E-102 of the Baltimore County Zoning Regulations ("B.C.Z.R.") 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 submit for approval by Baltimore County a landscape plan for the site demonstrating, among other things, appropriate screening and vegetation is provided along the scenic route, as required by the Landscape Manual.
3. Petitioners shall install a fence of sufficient height surrounding the solar panels which will, per the electric code, prevent the need for a barbed wire fence enclosure.
4. No weed killers or herbicides shall be used to control weed or grass growth at the facility.

5. Prior to issuance of permits, Petitioners must satisfy the environmental regulations set forth in Article 33 of the Baltimore County Code, pertaining to the protection of water quality, streams, wetlands and floodplains.
6. No trees shall be removed from the special exception area shown on the site plan in connection with the construction and/or operation of the solar facility.
7. Petitioners shall within 30 days of the date hereof submit to the OAH a redlined site plan showing a "special exception area" for the solar facility no larger than thirteen (13) acres.

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



DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 27, 2018

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a long horizontal flourish.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(20920 Old York Road)		
7 th Election District	*	OFFICE OF
3 rd Council District		
The Farm, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Forefront Power, LLC	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0057-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 The Farm, LLC, legal owner and Forefront Power, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Professional engineer Andrew Brown and landscape architect Stacy McArthur appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. Two interested 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 Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). None of the reviewing agencies opposed the request.

This case involves a 52.4 acre tract of land along a scenic route in northern Baltimore County. The subject property is zoned RC-2 and a 19.9 acre portion of the site is designated for the special exception use; the balance of the site is planted with crops and is farmed. The proposed solar panels would occupy approximately 6 acres of the special exception area, and the facility would generate 0.825 megawatts alternating current (AC) of electricity.

ORDER RECEIVED FOR FILING

Date 11/27/18
By sln

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.

Ms. McArthur, a landscape architect accepted as an expert, opined Petitioners satisfied all requirements set forth in BCZR Section 502.1 and BCZR Article 4F concerning solar facilities. The witness testified the forest buffer was delineated and shown on the site plan and that none of the proposed solar panels would be in an environmentally-sensitive area. Ms. McArthur also testified there was no flood plain on site and that the large areas of forest at the south of the site would be protected by a forest conservation easement.

Based on this testimony and the exhibits submitted at the hearing Petitioners have established a *prima facie* case entitling them to the special exception. I do not believe the testimony from Protestants successfully rebutted this *prima facie* case. James Baseman, who lives about one mile from the site, testified that solar facilities should not be in the RC 2 zones, and would be much more appropriate in a commercial area. That may be the case, but the County Council decided otherwise and Bill 37-17 expressly permits solar facilities in RC-2 zones and along scenic routes. The bottom line is the Protestants' objections in this case are virtually identical to those expressed by opponents in all of the prior zoning cases proposing solar facilities

ORDER RECEIVED FOR FILING

Date

11/27/18

By

sln

in northern Baltimore County. I believe this underscores that these are detrimental impacts inherent in the operation of a large solar facility, and the petition cannot be denied on that basis. *Montgomery County v. Butler*, 417 Md. 271, 276-77 (2010) (opponent must show “non-inherent adverse effect” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”).

THEREFORE, IT IS ORDERED this 27th day of **November, 2018**, by this Administrative Law Judge, that the Petition for Special Exception 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 DOP, copies of which are attached hereto and made a part hereof.
3. No barbed wire fencing shall be permitted in connection 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

11/27/18

By

sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

ORDER RECEIVED FOR FILING

S:\Planning\Shared\Users\wlippincott\scenic view development plan review\20920 Old York Road.docx

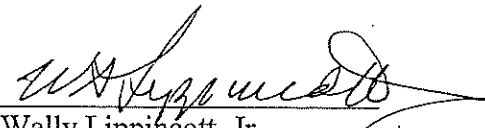
Date 11/27/18

By Sen

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

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Date 11/27/18
By sen

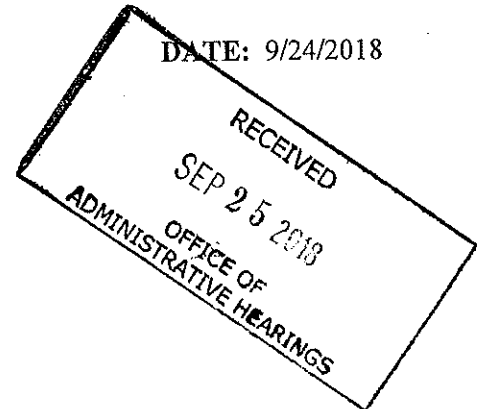
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

- 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 §4E-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.

ORDER RECEIVED FOR FILING

Date

11/27/18

By

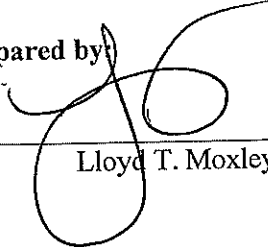
sen

- 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.

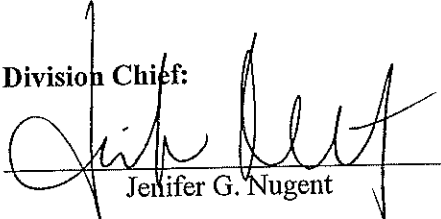
Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by


Lloyd T. Moxley

Division Chief:


Jennifer G. Nugent

AVA/JGN/LTM/

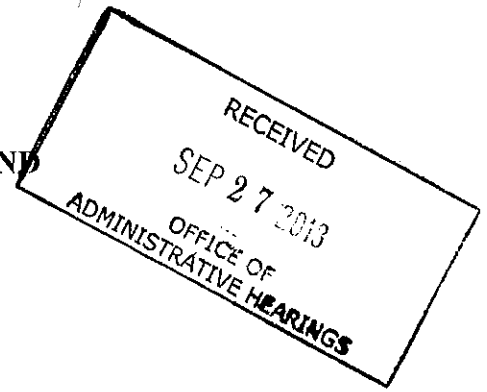
c: Joseph Wiley
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

ORDER RECEIVED FOR FILING

Date 11/27/18
By sen

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date

11/27/18

By

sen

CASE NAME The Farnin
CASE NUMBER 2019-57-X
DATE 11/20/18

NAME _____

ADDRESS

CITY, STATE, ZIP

E - MAIL

Laurence E Schmidt	600 Washington Ave	Towson 21204	lschmidt@sps-law.com
Amey Mathew	7115 Ambassador Rd	Balto MD 21211	SMATHU@DSthaler.com
Brendan Blank	12 East 49th Street	NY, NY 10017	bblank@forefrontpower.com
CHRISTIAN SCHLESINGER	12 EAST 49TH ST.	NY, NY 10017	CSCHLESING@ForeFrontTP.com
Andrew Brown	7115 Ambassador Rd.	Baltimore, MD	abrown@dsthale.com
Zack Wilkins	600 Washington Ave.	Towson 21204	zwilkins@sps-law.com
Kelsey Crane	1908 Florida Ave	Washington. DC 20009	kcrane@forefrontpower.com

PLEASE PRINT CLEARLY

CASE NAME 2019-0057-X
CASE NUMBER _____
DATE 11/20/18

CITIZEN'S SIGN - IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

SECOND CERTIFICATE OF POSTING

ATTENTION: SHERRY NUFFER

DATE: 11/17/2018

Case Number: 2019-0057-X

Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~

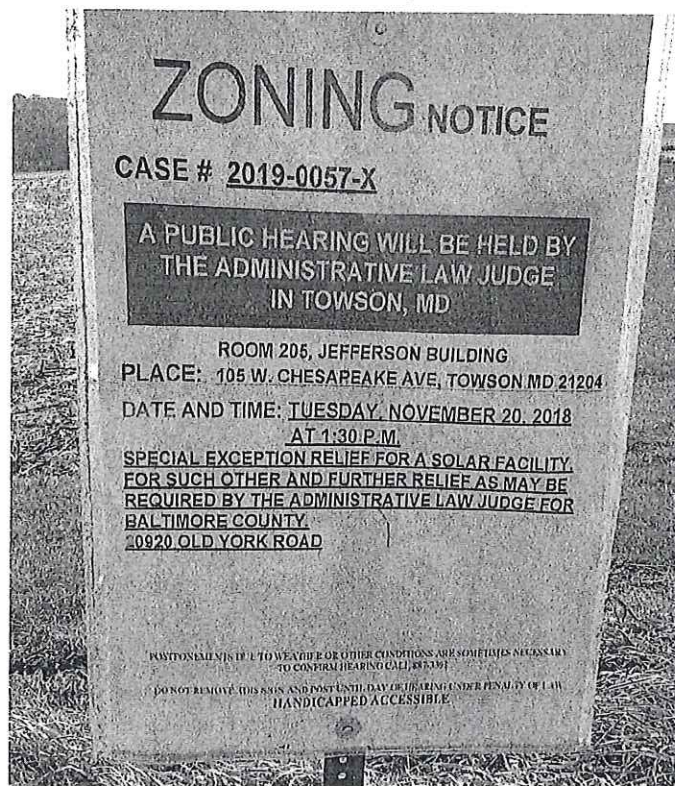
BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: OCTOBER 27, 2018

The sign(s) were re-photographed on: NOVEMBER 17, 2018



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)





1st Sign

2nd Sign

Re-photographed 11/17/2018 @ 20920 Old York Rd.
CASE # 2019-0057-X



JB 11-20-18
1:30 PM

Debra Wiley

From: Linda Okeefe <luckylinda1954@yahoo.com>
Sent: Saturday, November 17, 2018 8:53 PM
To: Administrative Hearings
Subject: 2nd Certification Case # 2019-0057-X
Attachments: Old York Rd. Cert..jpeg; Old York Rd. photos.docx

Hi Sherry,

I have attached the 2nd Certification along with photos for Case # 2019-0057-X @ 20920 Old York Rd.

Thank you,

Linda

Linda O'Keefe
523 Penny Lane
Hunt Valley MD 21030
Phone # 410-666-5366
Cell# 443-604-6431
Fax# 410-666-0929
luckylinda1954@yahoo.com





DONALD I. MOHLER III
County Executive

November 16, 2018

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

Dennis Danielczyk, Jr.
1600 Shore Rd.
Baltimore, MD 21220

Dear Mr. Danielczyk, Jr.:

RE: Case Number: 2019-0057X, Address: 20920 Old York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 20, 2018. 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,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." The signature is written in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: MTC

Enclosures

c: People's Counsel
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC 600 Washington Ave. Ste 200 Towson, MD 21204
Brian Maliszewski, Authorized Rep. of Forefront Powe, LLC. 100 Montgomery St. Ste 728 San Francisco, CA 94104

ZAC
Comments

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning



PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

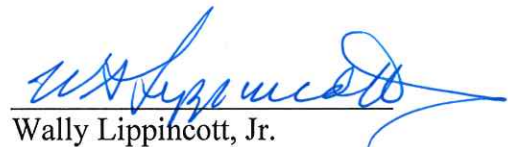
- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to *"maintain a buffer between the road and the new development"* (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

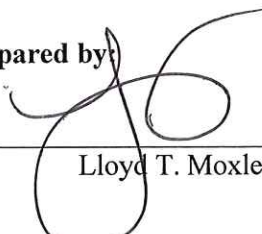
- Pursuant to BCZR §502.1.A, petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent residential properties as a result of glare emanating from the facility.
- Petitioners shall note on the plan that the proposed solar facility will be subject to BCZR §4E-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.

Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

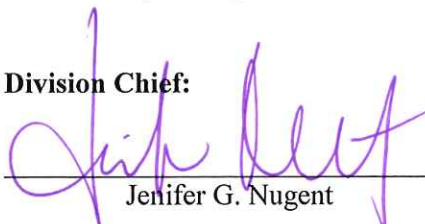
For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Jenifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley

James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
MJL
FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review
SUBJECT: Zoning Advisory Committee Meeting
For September 03, 2018
Item No. 2019-0057-X

DATE: September 12, 2018

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.

Proposed gravel access road should be paved in order to be dustless and durable.

Specific landscape comments:

1. Old York Road is a Baltimore County Scenic Route,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. 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 # 7 below),
5. More comments may be rendered during review of the landscape plan and 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,
6. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
7. Landscape screening appears to be needed to address adjacent properties views as it relates to the proposed solar facility. Including, but not limited to 20912, 20916 and 21004 Old York Road (Scenic Route).

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VKD: cen
cc: file

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION
STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

Date: 8/27/18

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

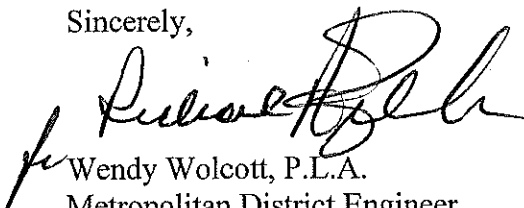
Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2019-0057-X

*Special Exception
The Farm LLC, Dennis Danielczyk
20920 Old York Road.*

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,


Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

The Daily Record

11 East Saratoga Street
Baltimore, MD 21202-2199
(443) 524-8100

<http://www.thedailyrecord.com>

Page 1 of 1

PUBLISHER'S AFFIDAVIT

Order #: 11629823
Case #: 2019-0057-X
Description:

NOTICE OF ZONING HEARING CASE NUMBER: 2019-0057-X

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:

10/31/2018



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: 2019-0057-X

20920 Old York Road

S/S Old York Road, n/w of Bond Road

7th Election District - 3rd Councilmanic District

Legal Owners: The Pann, LLC, Dennis Danielezyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Malszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building, 106 West Chesapeake Avenue, Towson 21204

Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3888.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

o31

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 10/27/2018

Case Number: 2019-0057-X

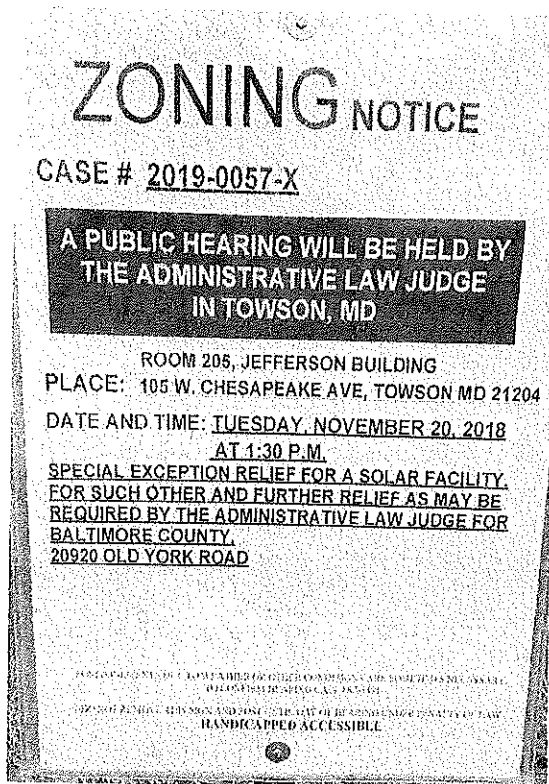
Petitioner / Developer: LAWRENCE SCHMIDT, ESQ. ~

BRIAN MALISZWESKI ~ DENNIS DANIELCZYK

Date of Hearing: NOVEMBER 20, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
20920 OLD YORK ROAD

The sign(s) were posted on: **OCTOBER 27, 2018**



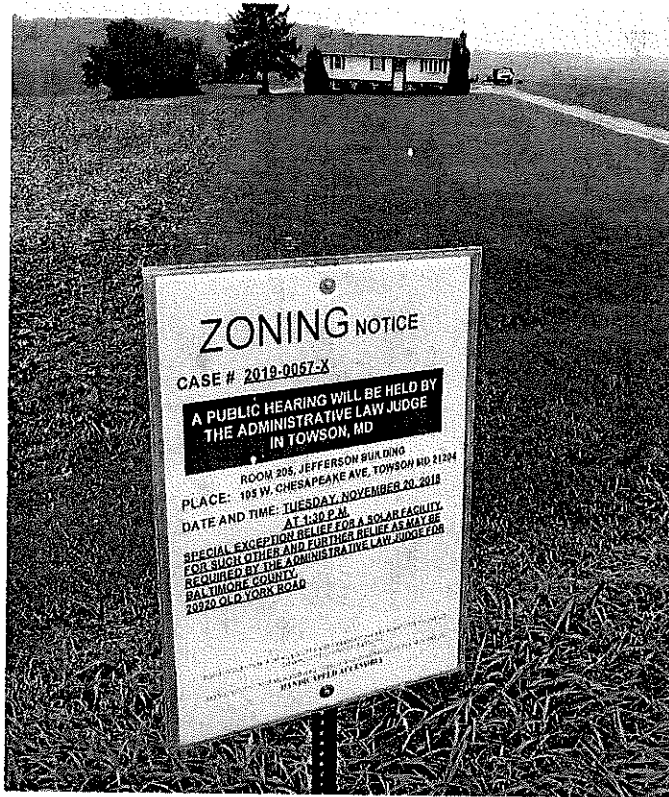
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)



1st Sign posted @ 20920 Old York Rd. 10/27/2018



2nd Sign posted @ 20920 Old York Rd. 10/27/2018
CASE # 2019-0057-X



DONALD I. MOHLER III
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

September 26, 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: 2019-0057-X

20920 Old York Road

S/s Old York Road, n/w of Bond Road

7th Election District – 3rd Councilmanic District

Legal Owners: The Farm, LLC, Dennis Danielczyk, Jr.

Contract Purchaser/Lessee: Forefront Power, LLC, Brian Maliszewski

Special Exception relief for a solar facility. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Hearing: Tuesday, November 20, 2018 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Brian Maliszewski, Forefront Power, 100 Montgomery St., Ste. 725, San Francisco CA 94104
Dennis Danielczyk, The Farm, 1600 Shore Road, Baltimore 21220

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WED., OCTOBER 31, 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 * BEFORE THE OFFICE
20920 Old York Road; S/S Old York Road, * OF ADMINISTRATIVE
1000' NW Bond Road * HEARINGS FOR
7th Election & 3rd Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): The Farm, LLC *
by Dennis Danielczyk, Jr. *
Contract Purchaser(s): Forefront Power, LLC*
Petitioner(s) * 2019-057-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 29 2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2018, a copy of the foregoing Entry of Appearance was mailed to Lawrence Schmidt, Esquire, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

August 16, 2018

ZONING DESCRIPTION

20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 1,000 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following ten (10) courses and distances:

1. South 64°18'09" East 179.17 feet to a point; thence
2. South 28°33'30" West 304.69 feet to a point; thence
3. South 51°37'52" East 303.87 feet to a point; thence
4. South 29°50'05" West 573.56 feet to a point; thence
5. North 60°09'55" West 277.82 feet to a point; thence
6. South 33°39'24" West 500.85 feet to a point; thence
7. North 51°04'18" West 766.16 feet to a point; thence
8. North 47°09'00" East 872.37 feet to a point; thence
9. South 60°49'35" East 231.60 feet to a point; thence
10. North 41°01'28" East 462.51 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.



Item #0057

11/20/2018

Case No.:

2019-0057-X

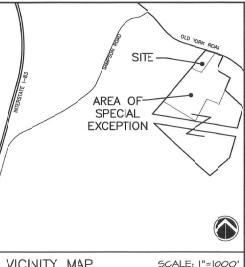
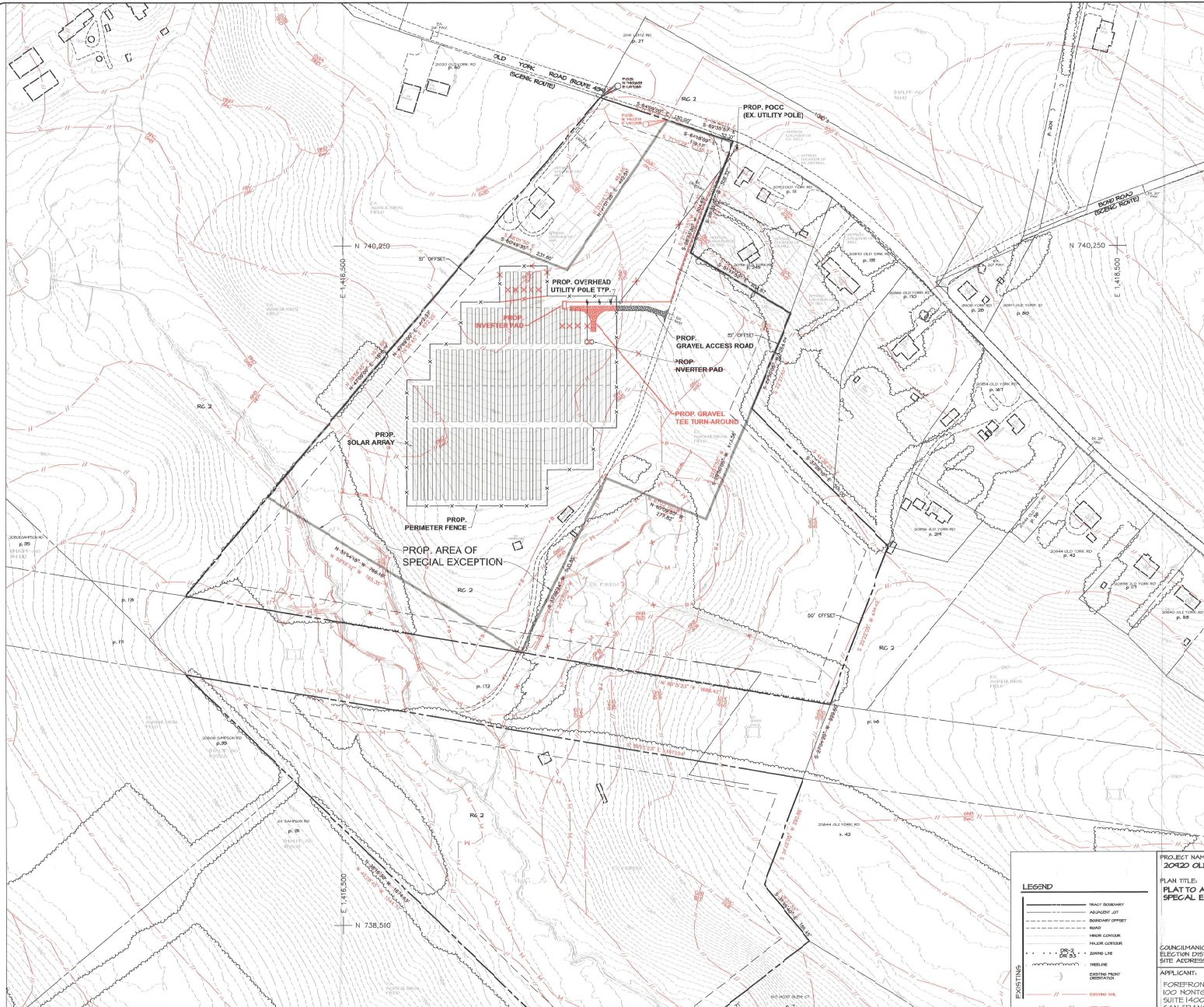
Exhibit Sheet

Petitioner/Developer

Protestants

No. 1	Plan	Aerial photo/map w/environmental features.
No. 2	Aerial w/ Landscaping	Photos of Animals on Fences
No. 3	3A-30" Photos	11-20-2018 Sparks-Glencoe Letter
No. 4	Aerial plan w/ site boundary	
No. 5	Zoning Description	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD



GENERAL NOTES

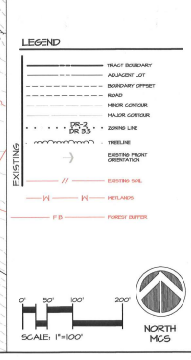
- Owner: Forefront Power LLC, 150 Ambassador Road, Suite 1400, San Francisco, CA 94104, ATTN: Mr. Brian Maliszewski, 415-800-5882. Applicant: Forefront Power LLC, 150 Ambassador Road, Suite 1400, San Francisco, CA 94104, ATTN: Mr. Brian Maliszewski, 415-800-5882. Petitioner: D. Thaler & Assoc., LLC, 7115 Ambassador Road, Suite 4120, Baltimore, MD 21244, ATTN: Doreen Chisholm, 410-444-3641.
- Property Reference: PARCEL TAX ACCOUNT # TAX HANDBOOK HELD SENCE DEED ADG. MAP 61 0708000000 1A 2301 252404682 31414-1 2403
- Boundary: Deed Plat. Zoning: Baltimore County, 2016 Zoning Map, 615 (H-100) C1.
- Floodplain: There is no floodplain on site (per FEMA Panel 5 of 560 Map #2404000000).
- Site Area: 52.4 Ac. (100,000 sq. ft.) (Area of Special Exception H-100 C1).
- Zoning: H-100 C1.
- Parking: Required: 0. Provided: 0.
- Existing Use: Agricultural & Residential.
- Site History: No prior Baltimore County 1g Neighborhood Map.
- The site is located within the Chesapeake Bay Critical Area.
- The site is located beyond the Urban Rural Demonstration Line (URDL).
- There were no commercial permits or active zoning violations found on file with Baltimore County.
- No signage is proposed.
- Basic Services: N/A - Site is beyond the URDL.
- The proposed solar facility will be subject to RCZR § 41-102.
- Lighting: The solar facility will not require the installation of lighting. If approved, Baltimore shall submit to the Department of Public Works a lighting plan for the solar facility and area of the facility by coordinate data.
- Lighting: The solar facility will not require the installation of lighting. If approved, Baltimore shall submit to the Department of Public Works a lighting plan for the solar facility and area of the facility by coordinate data.
- Storage: Storage 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 6:00 AM through 6:00 PM.
- Fields: Fields north of powerlines have been field located. Fields south of powerlines are existing fields.
- There are slopes greater than 10% for areas adjacent to and within 500 feet of streams, wetlands or other bodies of water and slopes greater than 25% for all other areas on site.
- There are no known rare species, threatened species or endangered species habitat, historical or archeological areas on site.
- Stormwater management: on site is compliance with H&E Design Guidelines for Solar Plants.
- There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of Environmental Protection and Sustainability.

ADJACENT OWNERS (WITHIN VICINITY OF SITE)

Parcel #	Owner Name	Address	City	State	Zip	Acres	Next 1	Location
27	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
111	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
28	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
128	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
129	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
130	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
131	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
132	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
133	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
134	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
135	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
136	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
137	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
138	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
139	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
140	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
141	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
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143	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
144	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
145	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
146	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
147	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
148	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
149	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest
150	John & Karen E. Hester	11111 Lanes Road	Beltsville	MD	21735	0.05	28	Agri/Forest

SOILS CHART

SYMBOL	NAME	STATUS	PERCENT	PERCENT	PERCENT	PERCENT	PERCENT	PERCENT
100	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
101	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
102	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
103	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
104	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
105	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
106	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
107	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
108	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
109	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
110	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
111	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
112	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
113	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
114	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
115	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
116	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
117	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
118	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
119	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED
120	Shallow clayey loam, 0 to 20 percent slopes	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED	VERY LIMITED



PROJECT NAME:
20920 OLD YORK ROAD

SECTION DEDICATED:
SECTION DEDICATED TO THE SITE ADDRESS: 20920 OLD YORK ROAD

PLAN TITLE:
PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION

CONVEYING DIST. BRO.
RECTION DIST. 1TH

APPLICANT:
FOREFRONT POWER LLC
100 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104
ATTN: MR. BRIAN MALISZEWSKI
415-800-5882

REVISION:
11-20-2018: Add Notes #12-16 per Department of Planning, add notes #17-20, adjust connection to per EAC recommendations, reduce size of solar array, add tree turn-around, indicate existing soils, soils chart, wetlands and forest buffer, adjust, north arrow, distance, and point of beginning location per MGS coordinates.

Special Exception Relief:

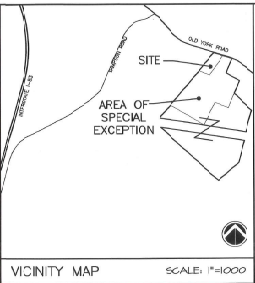
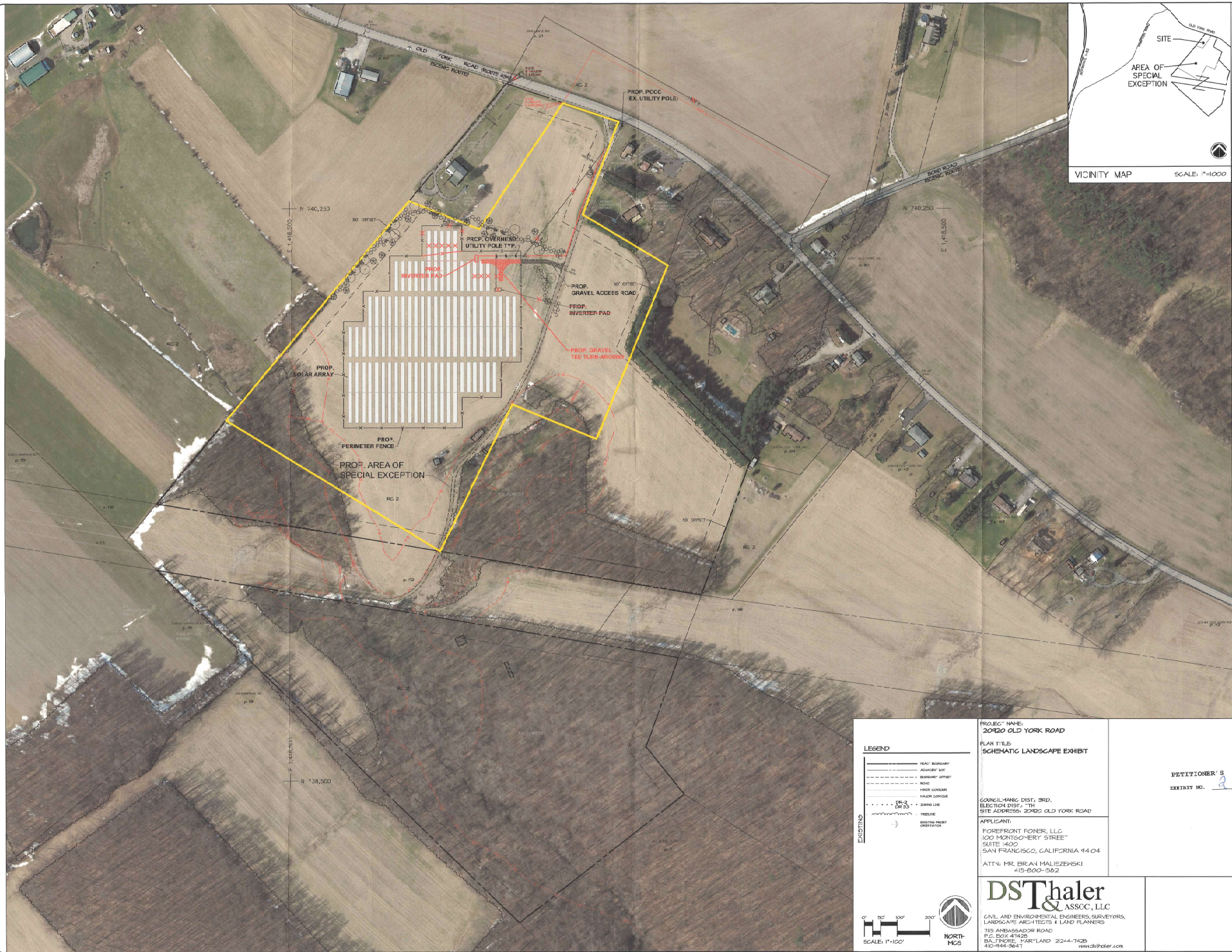
- To grant Special Exception relief for a solar facility pursuant to BCZR Section 41-102 (as established by Bill 37-11) and
- For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

PETITIONER'S 1
EXHIBIT NO. 1

DATE: 6/1/2018
SCALE: 1"=100'
C.L.: 2
PROJ. NO.: 04304
SHEET 1 OF 1

DSThaler & ASSOC., LLC
CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
LANDSCAPE ARCHITECTS & LAND PLANNERS
7115 AMBASSADOR ROAD
P.O. BOX 41420
BALTIMORE, MARYLAND 21244-7120
410-444-3641
www.dsthaler.com

STATE OF MARYLAND
NOTARY PUBLIC
JAMES E. HESTER
11-20-2018



SCHEMATIC LANDSCAPE EXHIBIT
20920 OLD YORK ROAD

LEGEND TRACT BOUNDARY ADJACENT LOT BOUNDARY OFFSET ROAD FENCE CORNER HANDS CORNER DRAINAGE DRAINAGE LINE FENCELINE EXISTING PROPERTY DISTRIBUTION	PROJECT NAME: 20920 OLD YORK ROAD PLAN TITLE: SCHEMATIC LANDSCAPE EXHIBIT COUNCIL-MANIC DIST. 3RD, ELECTION DIST. 1TH SITE ADDRESS: 20920 OLD YORK ROAD APPLICANT: FOREFRONT POWER, LLC 100 MONTGOMERY STREET SUITE 1400 SAN FRANCISCO, CALIFORNIA 94104 ATTN: MR. BRIAN MAJEZEWSKI 415-600-562	PETITIONER'S EXHIBIT NO. 2
SCALE: 1"=100' NORTH NCS	DSThaler & ASSOC., LLC CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS, LANDSCAPE ARCHITECTS & LAND PLANNERS 7115 AMBASSADOR ROAD P.O. BOX 41428 BALTIMORE, MARYLAND 21244-7428 410-444-3647 www.dsthaler.com	DATE: 11/20/2018 SCALE: 1"=100' CL: 2' PROJ NO: 04054 SHEET: 1 OF 1

3A

ZONING NOTICE

CASE # 2019-0057-X

A PUBLIC HEARING WILL BE HELD BY
THE ADMINISTRATIVE LAW JUDGE
IN TOWSON, MD

ROOM 205, JEFFERSON BUILDING

PLACE: 105 W. CHESAPEAKE AVE, TOWSON MD 21204

DATE AND TIME: TUESDAY, NOVEMBER 20, 2018
AT 1:30 P.M.

SPECIAL EXCEPTION RELIEF FOR A SOLAR FACILITY,
FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE
REQUIRED BY THE ADMINISTRATIVE LAW JUDGE FOR
BALTIMORE COUNTY,
20920 OLD YORK ROAD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CANCEL HEARING CALL BEHIND

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

3B



3C



3D



3E



3F



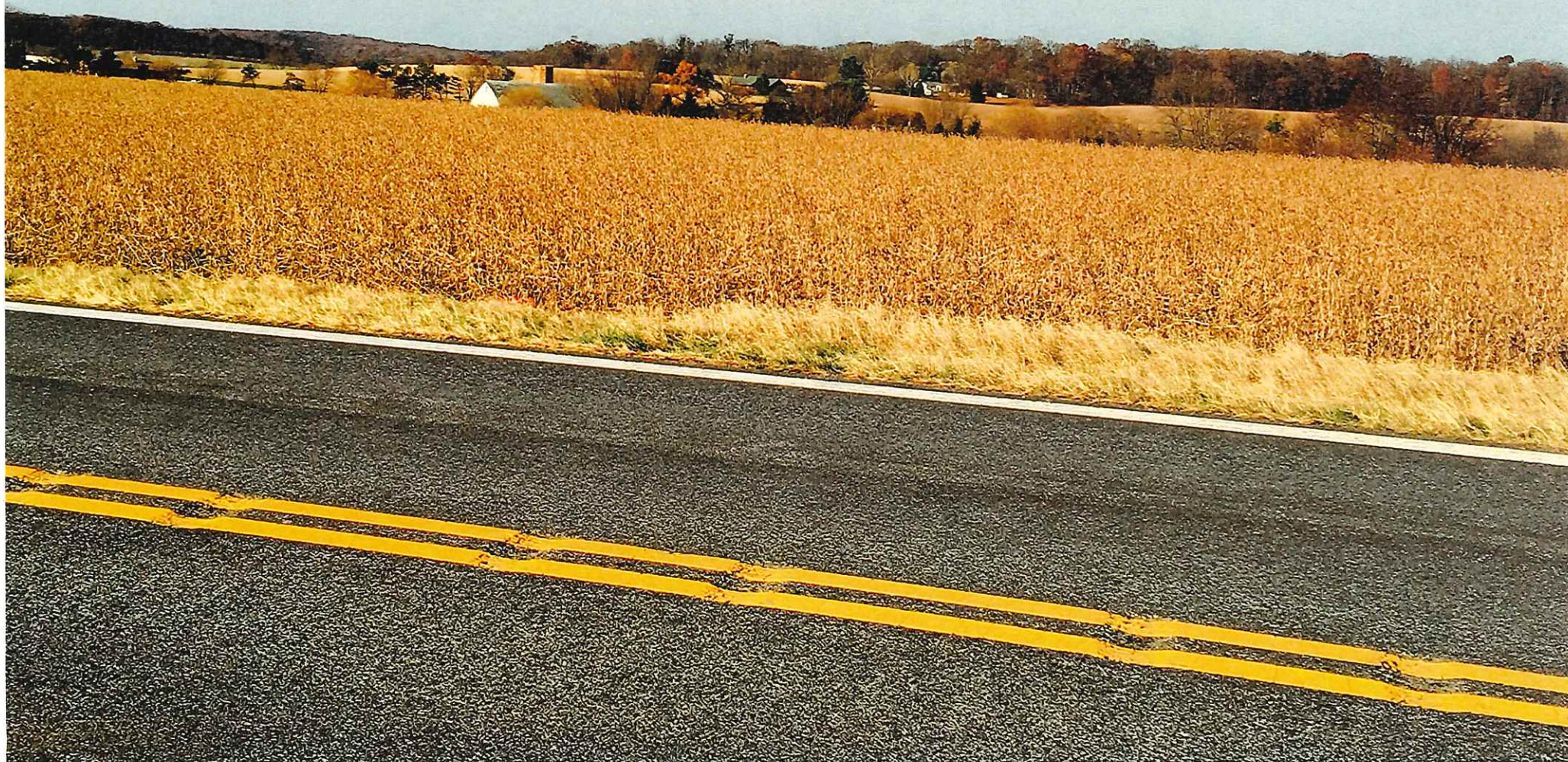
36



3H



31





3K



3L



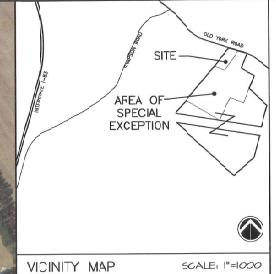
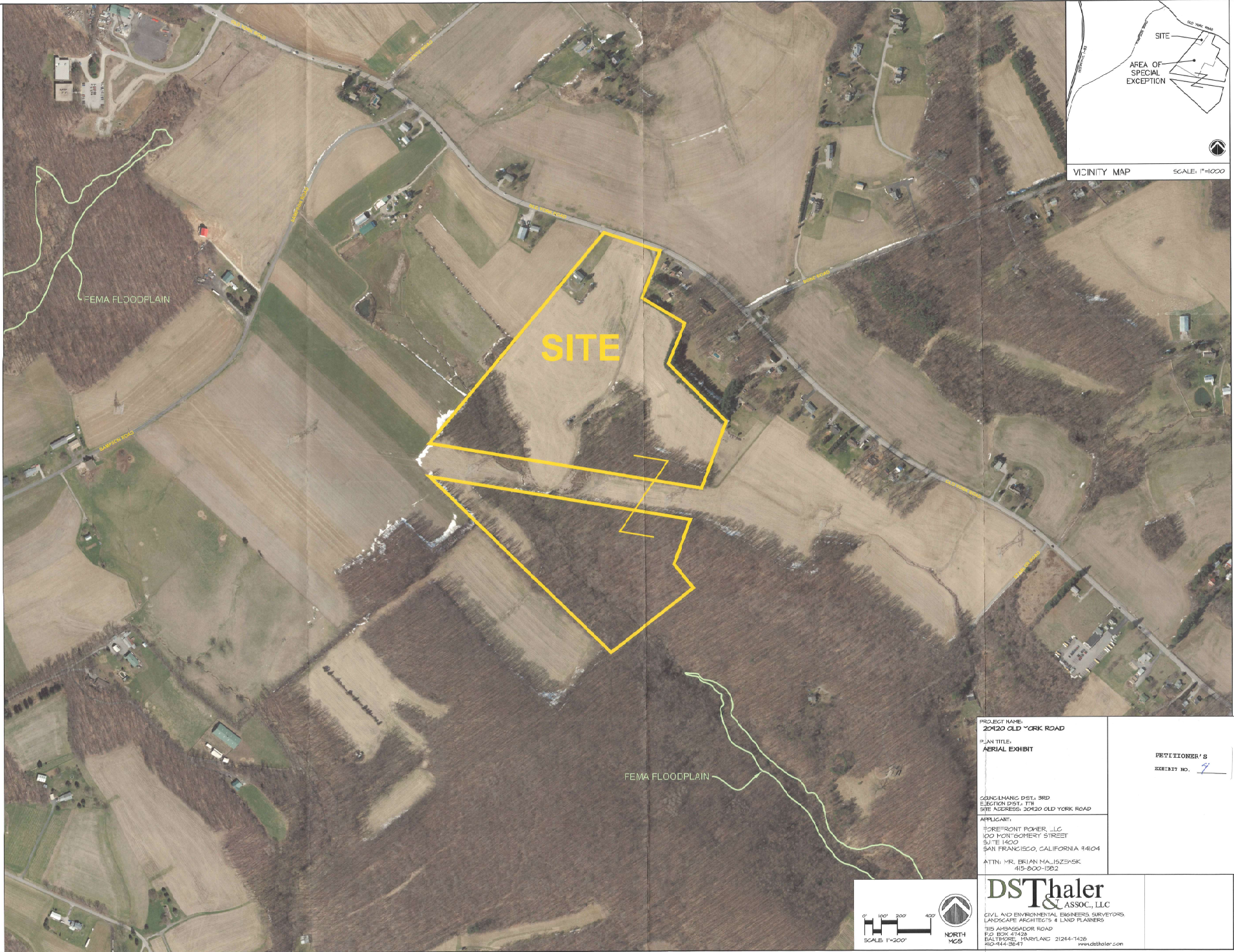
3M



3N







AERIAL EXHIBIT
20920 OLD YORK ROAD

PROJECT NAME:
20920 OLD YORK ROAD

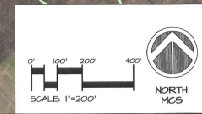
PLAN TITLE:
AERIAL EXHIBIT

CONGLIANG DIST. 3RD
 ELECTION DIST. 1TH
 SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT:
 FOREFRONT POWER, LLC
 100 MONTGOMERY STREET
 SUITE 1400
 SAN FRANCISCO, CALIFORNIA 94104

ATTN: MR. BRIAN MALISZEWSKI
 415-600-1582

PETITIONER'S
 EXHIBIT NO. 7



DSThaler & ASSOC., LLC

CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
 LANDSCAPE ARCHITECTS & LAND PLANNERS

115 AMBASSADOR ROAD
 P.O. BOX 47428
 BALTIMORE, MARYLAND 21244-1428
 410-444-2647

www.dsthaler.com

DATE: 1/20/2016
 SCALE: 1"=200'
 C.S. 2"
 PROJ.: NG 04394
 SHEET 1 OF 1

Ref No 5

November 13, 2018

ZONING DESCRIPTION

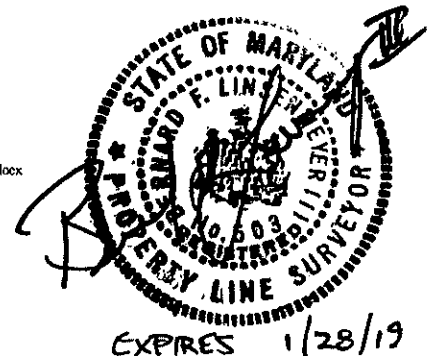
20920 OLD YORK ROAD

Beginning for the same on the south side of Old York Road, approximately 850 feet northwesterly from the centerline of the intersection of Bond Road and Old York Road, thence running the following eleven (11) courses and distances:

1. South 71°20'29" East 146.77 feet to a point; thence
2. South 76°48'11" East 32.20 feet to a point; thence
3. South 21°21'15" West 309.32 feet to a point; thence
4. South 58°50'07" East 303.87 feet to a point; thence
5. South 22°37'50" West 573.56 feet to a point; thence
6. North 67°22'10" West 277.82 feet to a point; thence
7. South 26°27'09" West 500.85 feet to a point; thence
8. North 58°16'32" West 765.35 feet to a point; thence
9. North 39°56'45" East 872.25 feet to a point; thence
10. South 68°01'50" East 231.60 feet to a point; thence
11. North 33°49'13" East 464.66 feet to the point of beginning.

Containing 19.9 acres of land, more or less.

Located in the Seventh Election District and the Third Councilmanic District of Baltimore County, Maryland.



11/20/2018

Case No.:

2019-0057-X

Exhibit Sheet

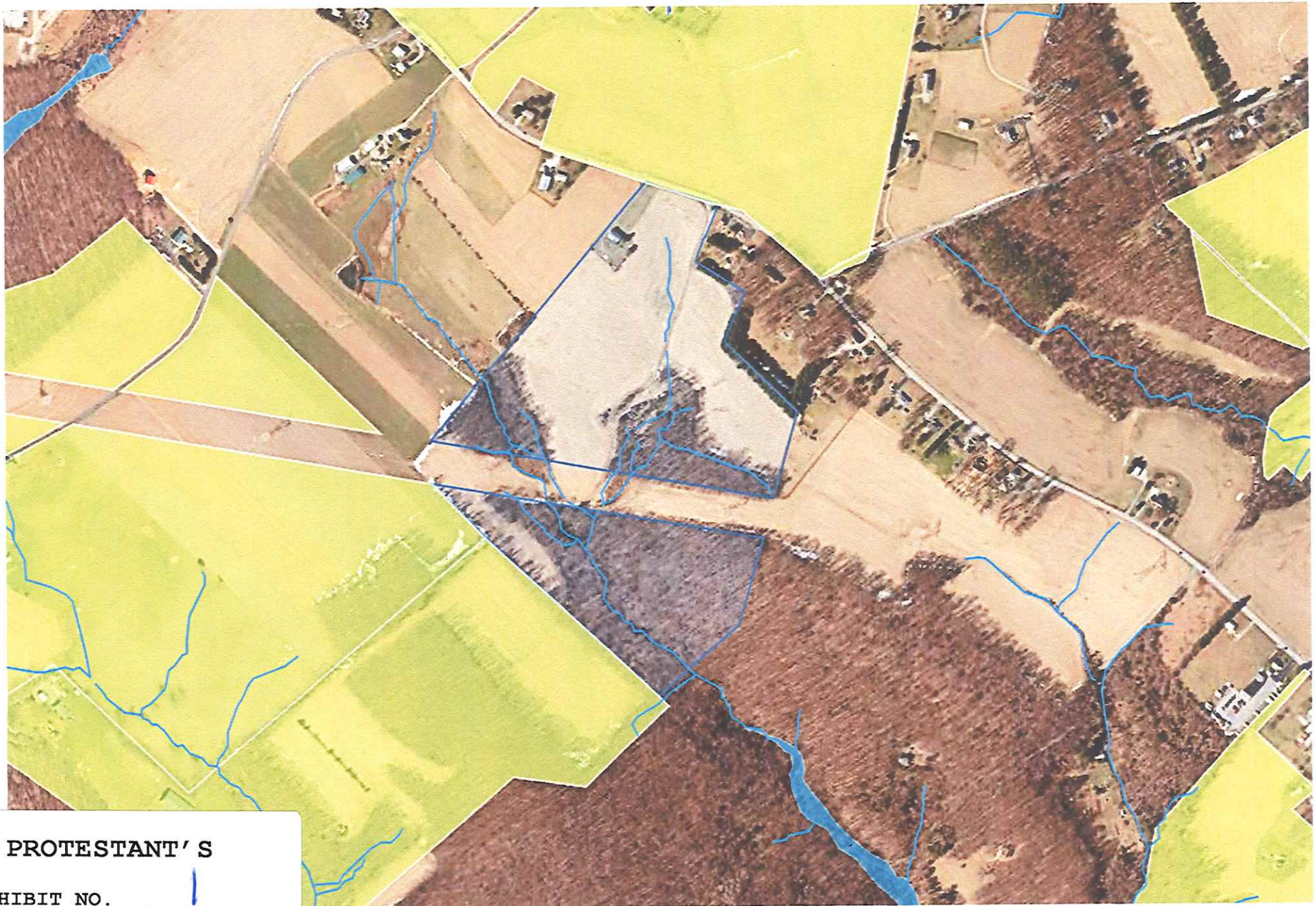
Petitioner/Developer

P2-8-19

Protestants

Jln
11-27-18

No. 1	Plan	Aerial photo/map w/environmental features.
No. 2	Aerial w/ Landscaping	Photos of Animals on Fences
No. 3	3A-30" Photos	11-20-2018 Sparks-Glencoe letter
No. 4	Aerial plan w/ site boundary	
No. 5	Zoning Description	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PROTESTANT'S

EXHIBIT NO. 1

20920 Old York Rd Case #2019-0057-X

Light blue area: property Light Green areas: Preserved land Site zoning: RC2 and is within an APPA.

Turquoise areas: floodplains This map shows at least 7 waterways/seeps on property.

Rt 439 (Old York Rd) is a scenic road; this site has many visual vantage points along Rt 439, Sampson Rd and Bond Rd, which is also designated scenic.

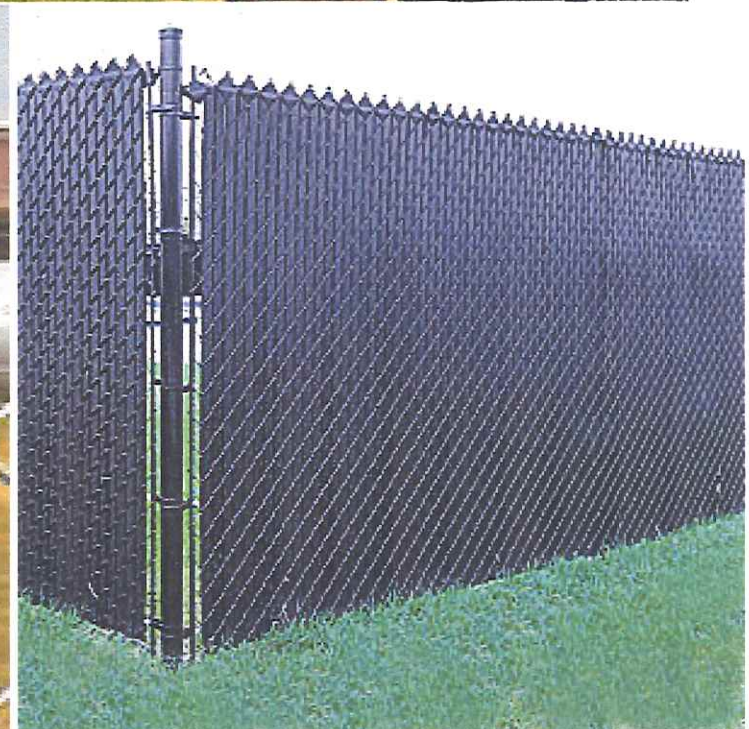
Prot. #1



All of these animals are indigenous to Baltimore County.

PROTESTANT' S

EXHIBIT NO. 2



Images of chain link fencing: The 3 black fences have exposed ends of wire at top. In order to protect wildlife, fence image on bottom left is preferred for rural environments for top of fencing. Not only are ends of wire bent to avoid exposed raw ends, but positioning bar at top of fence adds an additional layer of protection.

Both images on right include plastic strips for concealing purposes, which would look industrial, not natural in this rural setting. None of these fences would enhance or promote a scenic vista at this site, rather they would change the appearance of and promote a commercial environment that does not exist in this specific agricultural community, especially on a scenic route with community views.



Sparks-Glencoe Community
Planning Council
P.O. Box 937, Sparks, MD 21152

November 20, 2018

PROTESTANT' S

EXHIBIT NO. 3

The Honorable John E. Beverungen
Office of the Administrative Law Judge
The Jefferson Building
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: Case No. 2019-0057-X
20920 Old York Rd
3rd Councilmanic District
Legal Owner: The Farm, LLC
Contract Purchaser: Forefront Power, LLC
Hearing Date: November 20, 2018

Dear Judge Beverungen:

The Sparks-Glencoe Community Planning Council (SGCPC) is submitting this letter regarding a request for a special exception for a commercial solar facility in the Third Councilmanic District. This is the latest in a string of such special exception hearings in this District in the past twelve 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 contiguous landholders; impair the viewshed; and impacts surrounding waterways. The Department of Planning is beginning to understand the growing problem for agriculture that this kind of development represents. The Planning Department has acknowledged the Master Plan's warning of "incremental development" as a threat to the agricultural industry. We encourage you to include the question of continued viability of commercial agriculture 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 these projects. **In the recent campaign for County Executive, both candidates promised the Third District residents that the solar land rush would stop.**

Our concerns are particularly acute with regard to this project. Not only is it designated for prime and productive farmland on a scenic route, but also there are no less than seven

springheads and waterways. This entire area is within the Chesapeake Bay watershed. We need the natural springs to support local flora and fauna. These springs also filter water going into the Loch Raven reservoir, which as I am sure you know, is the primary source of drinking water for Baltimore City and much of the County. That reservoir continues to fail to meet federal standards for clean water.

In the event that the special exception is granted, we have several specific concerns. First, we request that any special exception be conditioned on the Department of Permits, Approvals, and Inspections (PAI) imposing 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 approval process. 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.

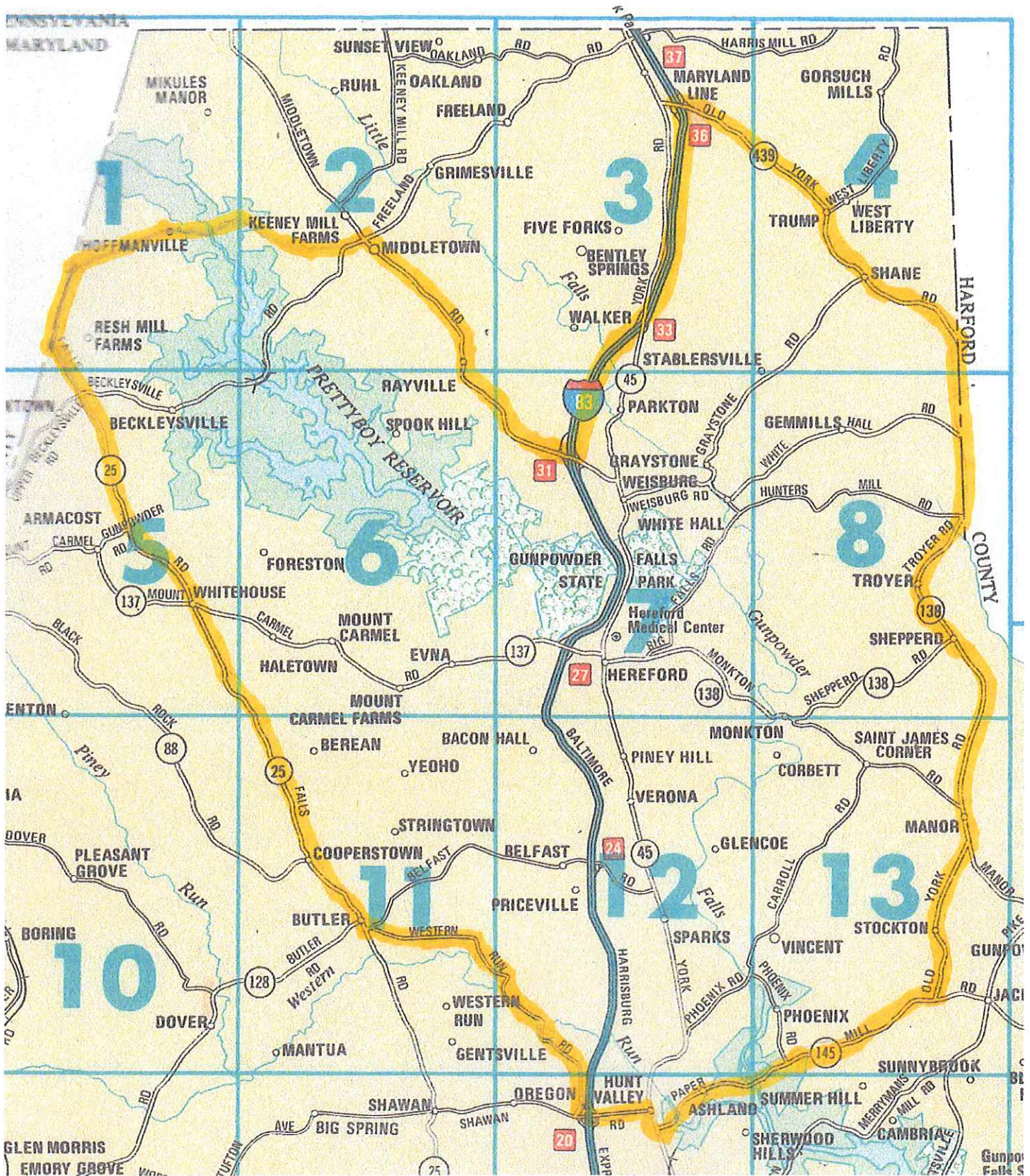
Second, the SGCPD is concerned about the impact on neighboring landowners. This particular site is on a scenic route which is in full view from several visual perspectives. The prospect of diminished land values for the surrounding area is real. It is certainly foreseeable that the viewshed of the larger resource conservation area will also be significantly impaired. It is for that reason any special exception must include significant natural buffers which protect the view from the adjoining roadways, the adjacent property owners, and 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. Accordingly, this project should be denied. If, however, the special exception is granted, there must obviously be many limitations designed to protect the public in general, the environment, water supply 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 consideration in this matter.

Sincerely,


Lynne Jones, President



Sparks Glencoe Community Planning Council Boundaries



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 20920 Old York Road which is presently zoned RC 2
 Deed References: 25248/00682 10 Digit Tax Account # 0708001050
 Property Owner(s) Printed Name(s) The Farm, 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
 Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name- Type or Print

Signature

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / bmaliszewski@forefrontpower.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Shore Road Baltimore MD

Mailing Address City State

21220 / /

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Do Not Schedule Dates: 11/27/18 Reviewer SD

Date 11/27/18 REV. 10/4/11

By SD

ORDER RECEIVED FOR FILING

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item #0057

Address List

Petitioner:

Dennis Danielczyk, Jr.
The Farm, LLC
1600 Shore Road
Baltimore, MD 21220
Legal Owner

Brian Maliszewski
Forefront Power, LLC
100 Montgomery Street, Suite 725
San Francisco, CA 94104
Lessee

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

T. Andrew Brown, P.E.
DS Thaler & Assoc., LLC
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

Protestants/Appellants:

Sparks Glencoe Community
Planning Council, Inc.
Box 937
Sparks, MD 21152

Lisa Arthur
19500 Burke Road
White Hall, MD 21161

Emma Arthur
19500 Burke Road
White Hall, MD 21161

Lynne Jones
815 Stablers Church Road
Parkton, MD 21120

Kathleen Pieper
4310 Beckleystown Road
Hampstead, MD 21074

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

Withdrew Appearance 12/22/2020

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

From: [Lawrence Schmidt](#)
To: ["Lynne Jones"](#); ["Kelsey Crane"](#); ["Brian Maliszewski"](#); ["Christian Schlesinger"](#); [Alyssa Moyers](#); [Zachary Wilkins](#); [Andrew Brown](#); [Krysundra Cannington](#)
Cc: [Peoples Counsel](#); ["Kathie Pieper"](#); ["Lisa Arthur"](#)
Subject: RE: Case #19-057-X, Old York Rd Solar Case
Date: Friday, January 22, 2021 9:26:43 AM

CAUTION: This message from lschmidt@sgs-law.com originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Ms. Cannington: As you are aware, I represent Forefront Power, LLC, the Petitioner in the above case. This matter is presently pending before the Board and is scheduled for hearing dates on January 27 and February 2 and 4. You might also recall that the Protestants were previously represented by counsel (Mr. Mowell) however, he has stricken his appearance and they are now not represented. Ms. Lynne Jones, one of the Protestants is serving as spokesperson for the group. In addition to Ms. Jones, the other appellants identified in the Notice of Appeal are Lisa Arthur, Emma Arthur (who apparently resides with Lisa Arthur), The Greater Sparks Glencoe Community Planning Council, Inc. (Ms. Jones is an officer in that organization), and Kathleen Pieper. All of the appellants (except Emma Arthur, who I trust can be reached by Lisa Arthur) are copied on this email.

I am pleased to advise you that as a result of conversations between myself and Ms. Jones, we believe that we have reached a tentative settlement of this matter. The size of the proposed solar facility has been reduced from what was approved by the ALJ and there are other details of agreement.

Because the facility has been modified, we will still be required to have an evidentiary hearing before the Board to present the new plan and otherwise address the special exception requirements set forth in the law. But the hearing should consume one-half day, at the most.

In that we are still finalizing certain details of the settlement and exchanging documents, I would request that the hearings on January 27 and February 2 be cancelled and that we convene on February 4. Hopefully, that will provide the parties with sufficient time to finalize the details so that the hearing can be handled expeditiously. I have spoken to Ms. Jones and she concurs with this approach.

Thank you for your anticipated cooperation and please let me know if you have any questions and our request can be accommodated.

Larry Schmidt

Lawrence E. Schmidt | Partner

SMITH, GILDEA & SCHMIDT, LLC

600 Washington | Suite 200 | Towson, MD 21204 | (410) 821-0070

lschmidt@sgs-law.com | www.sgs-law.com

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SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
MICHAEL G. DEHAVEN
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH

*Admitted in MD, FL, PA

LAUREN D. BENJAMIN
SARAH A. ZADROZNY
CARMELO D. MORABITO
ZACHARY J. WILKINS

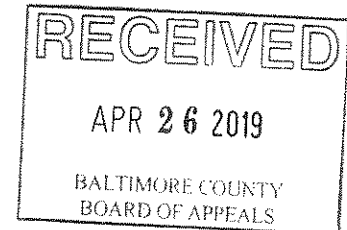
of counsel:
EUGENE A. ARBAUGH, JR.
DAVID T. LAMPTON
MARY G. LOKER
STEPHEN J. NOLAN

April 26, 2019

Sent via Hand Delivery

Ms. Krysundra L. Cannington, Administrator
Board of Appeals of Baltimore County
Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Legal Owner: The Farm, LLC
Lessee: Forefront Power, LLC
Property: 20920 Old York Road
Case No. 2019-057-X



Dear Ms. Cannington,

This is in reference to the above matter currently scheduled for hearing before the Board on May 9, 2019 and May 23, 2019. This matter is for the consideration of a petition for special exception to permit a proposed solar facility. The petition was filed by my client, Forefront Power, LLC, as lessee. The property owner, The Farm, LLC, is designated as the co-petitioner. Forefront Power, LLC is an energy company and will construct and operate the proposed facility.

My client has recently advised that they are contemplating the transfer/sale of their rights under the current lease to a different entity. This entity would be another entity that is experienced in the development and operation of solar facilities. Under the circumstances, I am hereby requesting a postponement of the May 9th and May 23rd hearing dates and request that the matter be reset after August 1, 2019. Although the anticipated project would largely remain the same, the parties involved would like to have the transaction finalized before a hearing. I also think it appropriate that the ultimate developer and operator of the facility participate at the Board's hearings so as to explain the operational details. Insofar as my calendar for a re-scheduling, I am available August except for the following dates: August 2, 14, 15 and 16.

Ms. Krysundra L. Cannington, Administrator

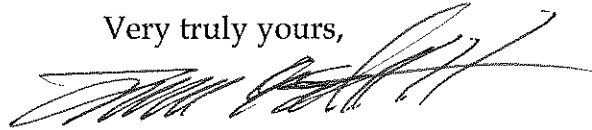
April 26, 2019

Page 2

This postponement will not be prejudicial to any parties. The petition for special exception was granted below and thus the delay occasioned by this request does not prejudice the opponents to the petition. Actually, it is arguably beneficial to them as the project, if approved, will not be constructed until later than initially anticipated. I have copied their counsel with this correspondence. I appreciate the Board's attention to this request and please do not hesitate to contact me should you have any questions.

Thank you for your courtesy.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Lawrence E. Schmidt', with a long horizontal flourish extending to the right.

Lawrence E. Schmidt

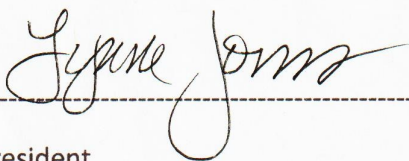
LES/am

cc: H. Barnes Mowell, Esquire

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC

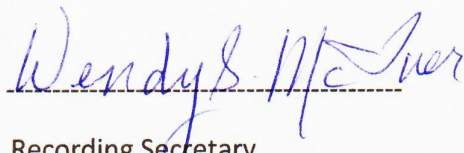
RESOLVED: That at the ANNUAL MEETING of The Sparks Glencoe Community Planning Council, Inc. held on April 15, 2020, it was decided that responsibility for review and action on all zoning and development matters for the period 2020-2021 be placed on the Board of Directors and members of the duly elected Zoning Committee.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.



President

Lynne Jones



Recording Secretary

Wendy McIver

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 known as:

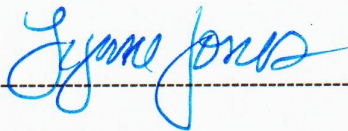
Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone, case # 2019-057-X.

The Sparks Glencoe Community Planning Council ("Sparks Glencoe" or "SGCPC") is a non-profit organization dedicated to preserving the rural character and natural resources of Northern Baltimore County, MD.

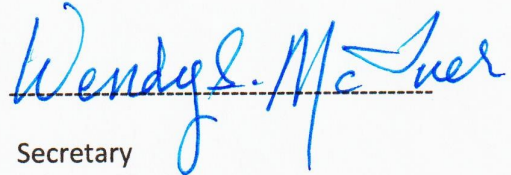
The Board of SGCPC has agreed to settle this as a theoretical matter to resolve this case by way of settlement but requires specificity regarding the number of acres utilized. The site plan alone is insufficient.

AS WITNESS OUR HANDS AND SEAL THIS 6TH DAY OF JULY 2021.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

A handwritten signature in blue ink, appearing to read "Lynn Jones", written over a horizontal dashed line.

President

A handwritten signature in blue ink, appearing to read "Wendy McIner", written over a horizontal dashed line.

Secretary

AFFIDAVIT

STATE OF MARYLAND

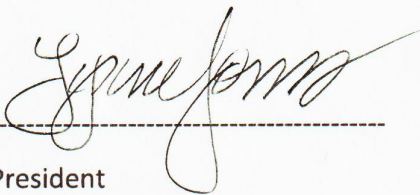
BALTIMORE COUNTY, SS:

TO WIT:

I hearby swear upon perjury that I, Lynne Jones, am currently a
duly elected member of the Board of Directors of The Sparks
Glencoe Community Planning Council, Inc.

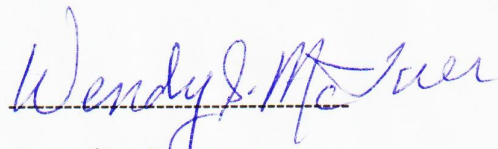
AS WITNESS OUR HANDS AND SEAL THIS 15th
DAY of April, 2020.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.



President

Lynne Jones



Recording Secretary

Wendy McIver

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

Krysundra Cannington
Administrator

Duplicate original

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (referred to hereinafter as the "**Agreement**") made this 9 day of August, 2021 by and between **FFP MD Community Solar, LLC**, a Delaware limited liability company ("**Forefront**") and **Sparks Glencoe Community Planning Council, Lisa Arthur, Emma Arthur, Lynne Jones, and Kathleen Pieper** (collectively "**Protestants**");

RECITALS:

WHEREAS, Forefront is the Lessee of certain real property located in the Freeland community of northern Baltimore County, known as 20920 Old York Road (the "**Property**"); and,

WHEREAS, Forefront is proposing the development of a solar facility on the Property ("**Solar Facility Project**"); and

WHEREAS, the Baltimore County Administrative Law Judge granted special exception approval of the Solar Facility Project on November 27, 2018, and issued an Order dated January 8, 2019 which denied Protestants' Motion to Reconsider (hereinafter, collectively referred to as the "**ALJ Approval Order**"); and

WHEREAS, the Protestants filed an appeal of the ALJ Approval Order to the Baltimore County Board of Appeals on February 5, 2019 ("**Protestants' Appeal**"); and

WHEREAS, the Protestants' Appeal is pending litigation at the Baltimore County Board of Appeals ("**BOA Case**"); and

WHEREAS, the parties have negotiated to resolve the outstanding issues between them and enter into this Agreement in order to fully and finally resolve the issues between them as it relates to the Solar Facility Project.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.
2. Forefront agrees to the following:
 - a. To develop the Solar Facility Project on the Property as shown on the site plan in **Exhibit A**;

- b. To enhance the landscape buffer previously proposed along the viewshed onto the Property from Old York Road as shown on **Exhibit A**;
 - c. To provide for a two-year inspection of the proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
 - d. To reduce the acreage of the special exception to no greater than seventeen (17) acres and to reduce the total number of proposed solar panels, as shown on the attached site plan in **Exhibit A**;
 - e. To prohibit the use of any barbed wire on the proposed chain link fence;
 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
- a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): 
Name: Michael Smith
Title: President
Date: August 8, 2021

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): _____
Name: _____
Title: _____
Date: _____

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

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WITNESS/ATTEST:

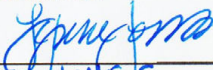
WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): _____
Name: _____
Title: _____
Date: _____

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): 
Name: LYNNE JONES
Title: PRESIDENT
Date: 8.2.2021

WITNESS:

LISA ARTHUR

Signature: Lisa Arthur
Date: 8/3/2021

WITNESS:

EMMA ARTHUR

Signature: Emma Arthur
Date: 8/3/21

WITNESS:

LYNNE JONES

Signature: _____
Date: _____

WITNESS:

KATHLEEN PIEPER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

WITNESS:

LISA ARTHUR

Signature: _____

Date: _____

WITNESS:

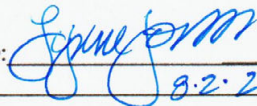
EMMA ARTHUR

Signature: _____

Date: _____

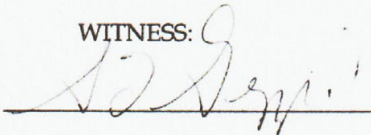
WITNESS:

LYNNE JONES

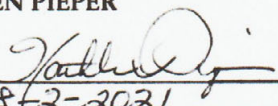
Signature: 

Date: 8.2.21

WITNESS:

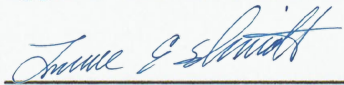


KATHLEEN PIEPER

Signature: 

Date: 8-2-2021

Approved as to content and form:


LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

Site Plan (attached)
Referred to herein as Exhibit A

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

Krysundra Cannington
Administrator

Duplicate original

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20920 Old York Road)
7th Election District * OFFICE OF
3rd Council District *
The Farm, LLC * ADMINISTRATIVE HEARINGS
Legal Owner
Forefront Power, LLC * FOR BALTIMORE COUNTY
Lessee
Petitioners * Case No. 2019-0057-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 The Farm, LLC, legal owner and Forefront Power, LLC, lessee ("Petitioners"). The special exception petition was filed pursuant to the Baltimore County Zoning Regulations ("BCZR") to approve a solar facility.

Professional engineer Andrew Brown and landscape architect Stacy McArthur appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. Two interested 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 Department of Planning ("DOP") and the Bureau of Development Plans Review ("DPR"). None of the reviewing agencies opposed the request.

This case involves a 52.4 acre tract of land along a scenic route in northern Baltimore County. The subject property is zoned RC-2 and a 19.9 acre portion of the site is designated for the special exception use; the balance of the site is planted with crops and is farmed. The proposed solar panels would occupy approximately 6 acres of the special exception area, and the facility would generate 0.825 megawatts alternating current (AC) of electricity.

ORDER RECEIVED FOR FILING

Date 11/27/18
By Sen

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.

Ms. McArthur, a landscape architect accepted as an expert, opined Petitioners satisfied all requirements set forth in BCZR Section 502.1 and BCZR Article 4F concerning solar facilities. The witness testified the forest buffer was delineated and shown on the site plan and that none of the proposed solar panels would be in an environmentally-sensitive area. Ms. McArthur also testified there was no flood plain on site and that the large areas of forest at the south of the site would be protected by a forest conservation easement.

Based on this testimony and the exhibits submitted at the hearing Petitioners have established a *prima facie* case entitling them to the special exception. I do not believe the testimony from Protestants successfully rebutted this *prima facie* case. James Baseman, who lives about one mile from the site, testified that solar facilities should not be in the RC 2 zones, and would be much more appropriate in a commercial area. That may be the case, but the County Council decided otherwise and Bill 37-17 expressly permits solar facilities in RC-2 zones and along scenic routes. The bottom line is the Protestants' objections in this case are virtually identical to those expressed by opponents in all of the prior zoning cases proposing solar facilities

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Date 11/27/18
By sln

in northern Baltimore County. I believe this underscores that these are detrimental impacts inherent in the operation of a large solar facility, and the petition cannot be denied on that basis. *Montgomery County v. Butler*, 417 Md. 271, 276-77 (2010) (opponent must show “non-inherent adverse effect” to “undercut the presumption of compatibility enjoyed by a proposed special exception use”).

THEREFORE, IT IS ORDERED this 27th day of **November, 2018**, by this Administrative Law Judge, that the Petition for Special Exception 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 DOP, copies of which are attached hereto and made a part hereof.
3. No barbed wire fencing shall be permitted in connection 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

11/27/18

By

sln

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Jenifer Nugent
Development Review Section
Office of Planning

DATE: October 26, 2018

FROM: Wally Lippincott, Jr.
Neighborhood Response Team
Department of Planning

PROJECT NAME: 20920 Old York Road

PROJECT NO.: ZAC 2019-0057

PROPOSAL: The Office of Planning has received a Scenic Route Study for approval of the proposed solar array project to be located at 20920 Old York Road. The materials were received on October 11, 2018 from DS Thaler & Assoc., LLC.

SUBMITTAL: The Study Plan was reviewed for completeness of submission of the requirements of the Comprehensive Manual of Development Policies (CMDP) as adopted by the Baltimore County Planning Board on April 16, 1992 with Amendments September 20, 2006. The Study Plan materials are accepted as meeting the CMDP required submittals for approval (Page 185) and are listed below:

- Written narrative
- Scenic Route – Photo Exhibit that provided 6 different views of the proposed solar array.
- Plan view sections
- Aerial with proposed arrays and landscaping
- Schematic planting plan
- Existing vegetation shown on the schematic planting plan and aerial. There are no major or minor trees within the direct view of the site from Old York Road. Existing vegetation is shown on the schematic planting plan.

OBSERVATIONS: As described in the submitted narrative, verified by the topography on the submitted plans, and by the field visit on October 18, 2018 the property slopes south from Old York Road. The most evident components of the view from Old York Road is of the house, field between the house and Old York Road and the tree line in the distance to the rear of the site. The

ORDER RECEIVED FOR FILING

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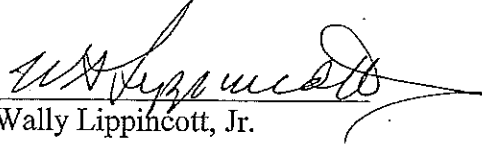
Date 11/27/18

By sen

site is not highly visible either approaching the site from the east or west. It is currently farmed and is contiguous with other farmland to the south and east. Most of the residential in the vicinity is located along Old York Road. The site is bisected by high tension power lines. There is also a two line set of poles and wires that run on the east side of the site. The rear of the property is primarily wooded with the exception of the area under the high tension line.

RECOMMENDATIONS:

- The landscape plan should seek to obscure the view of the solar arrays from direct view from Old York Road. The schematic plan proposes plantings in a location that will accomplish this but instead of a single "row" of planting material the amount of material should be increased to give more depth to the screening and to make a more natural condition.
- The landscape plan shows proposes plant material to the east of the farm road that cuts through the site. This material should be moved to the west side of the access road. This will minimize the impact to the agricultural fields.
- The front and the field to the east of the farm road should remain in cultivation.
- The plan proposes a utility line from Old York through the front farm field to the inverter. This would impact the scenic view. In the alternative, the developer should use the existing power line that accesses the site or investigate burying the proposed line.


Wally Lippincott, Jr.

c. James Herman, Baltimore County Landscape Architect

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Date 11/27/18
By sen

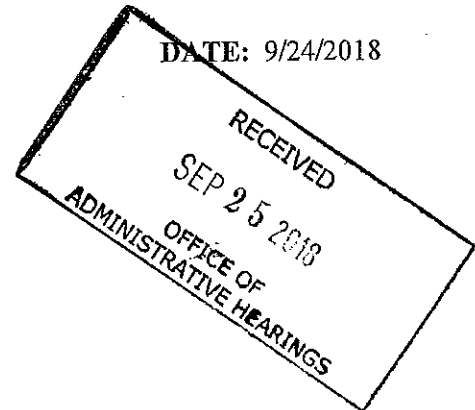
BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 19-057



INFORMATION:

Property Address: 20920 Old York Road
Petitioner: Dennis Danielczyk, Jr., The Farm, LLC
Zoning: RC 2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for a special exception to use the property for a solar facility.

A site visit was conducted on 8/29/2018.

The Department does not oppose granting the petitioned zoning relief conditioned upon the following.

Old York Road is a Baltimore County Scenic Route. When developing on a scenic route, the Comprehensive Manual of Development Policies (CMDP) development guidelines instructs one to "maintain a buffer between the road and the new development" (CMDP pg. 180).

- The proposal shall minimize grading, tree and vegetation removal along Old York Road.
- 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.

Additional conditions are as follows:

- 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 §4E-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.

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Date

11/27/18

By

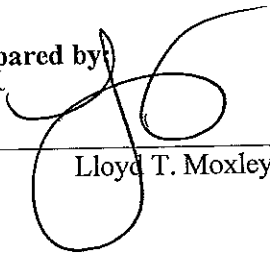
sen

- 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.

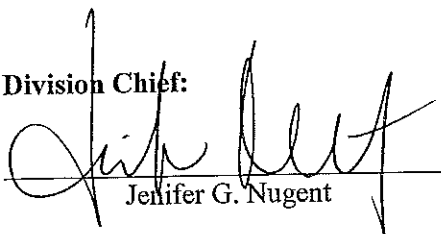
Be advised that the site is within an Agricultural Priority Preservation Area as designated in the Baltimore County Master Plan 2020 (MP2020). Said plan warns that *"incremental development continues to threaten the protection of resources and the viability of the agricultural industry."* (MP2020 pg.92). The Department recommends that the future viability of commercial agricultural in Baltimore County be weighed when considering this special exception proposal within the context of 502.1.G.

For further information concerning the matters stated herein, please contact Joseph Wiley at 410-887-3480.

Prepared by:


Lloyd T. Moxley

Division Chief:


Jennifer G. Nugent

AVA/JGN/LTM/

c: Joseph Wiley
James Hermann, R.L.A., Department of Permits, Approvals and Inspections
Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC
Office of the Administrative Hearings
People's Counsel for Baltimore County

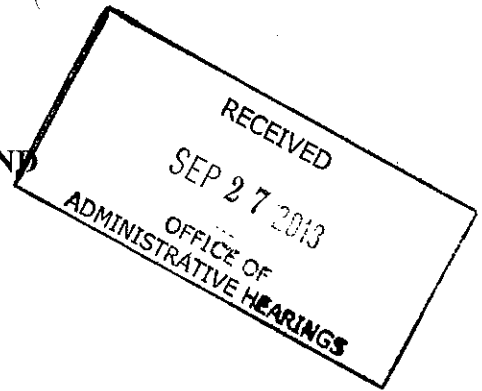
ORDER RECEIVED FOR FILING

Date 11/27/18

By sen

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: September 27, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0057-X
Address 20920 Old York Road
(The Farm, LLC Property)

Zoning Advisory Committee Meeting of **September 3, 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), for the entire site.
- 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), for the entire site.

Additional Comments: The plan does not contain sufficient information to determine whether or not the project, as proposed, will result in forest buffer impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review

ORDER RECEIVED FOR FILING

Date 11/27/18

By sen



DONALD I. MOHLER III
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

November 27, 2018

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Mr. Schmidt:

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,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
(20920 Old York Road) *
7th Election District * OFFICE OF
3rd Council District *
The Farm, LLC * ADMINISTRATIVE HEARINGS
Legal Owner *
Forefront Power, LLC * FOR BALTIMORE COUNTY
Lessee *
Petitioners * **Case No. 2019-0057-X**

* * * * *

ORDER ON PROTESTANTS'
MOTION FOR RECONSIDERATION

Protestants have filed a motion for reconsideration wherein they raise two (2) arguments:
(1) Lessee Petitioner's charter was forfeited on the date of the zoning hearing, and as such the petition should be dismissed; and (2) the size of the special exception area is too large. These arguments are addressed below.

Entity Status

The Lessee in the above-case, which would operate the solar facility, is Forefront Power, LLC. Based on the exhibits attached to Protestants' motion, its entity status was forfeited on November 19, 2018, and the hearing in this case was the next day, November 20, 2018.

Petitioner initially contends (but does not provide any case or statutory authority for the proposition) the forfeiture statute is only applicable in a judicial proceeding. In similar settings (i.e., standing, doctrine of res judicata) Maryland cases have indicated that such rules apply to both judicial and quasi-judicial proceedings. As such, I do not believe this argument has merit.

But Petitioners also note that the legal owner of the subject property (The Farm, LLC) was also a petitioner in the zoning case, and that entity apparently was and is in good standing. As such, I agree with Petitioners that whether or not the Lessee's charter was forfeited is immaterial

ORDER RECEIVED FOR FILING

Date 1-8-19

By lgw

in the circumstances of this case; two (2) petitioners signed the zoning petitions even though the legal owner could have filed and prosecuted the case on its own.

Size of Special Exception Area

Protestants contend the size of the special exception in this case is excessive and in support of that argument they submit a chart (attached to the Motion as Exhibit 2) comparing the sizes of special exception areas in recent solar facility cases. As Petitioners note, this evidence was not presented at the hearing and cannot be considered in connection with the motion.

But more to the point, the size of the special exception area was considered at the hearing and Petitioners summarize the testimony of their witness (Kelsey Crane) that addressed this issue. As such, I do not believe the motion presents any "new or different factual situation" which would justify reaching a different conclusion.

WHEREFORE, IT IS ORDERED this 8th day of **January, 2019**, by this Administrative Law Judge, that the Protestants' Motion for Reconsideration, be and is hereby DENIED.

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/dlw

ORDER RECEIVED FOR FILING

Date 1-8-19

By KW



JOHN A. OLSZEWSKI, JR.
County Executive

ADMINISTRATIVE LAW JUDGE
Office of Administrative Hearings

January 8, 2019

Lawrence E. Schmidt, Esq.
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

H. Barnes Mowell, Esq.
H. Barnes Mowell, P.A.
16925 York Road
Monkton, MD 21111

RE: MOTION FOR RECONSIDERATION
Petition for Special Exception
Case No. 2019-0057-X
Property: 20920 Old York Road

Dear Counsel:

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,

A handwritten signature in black ink, appearing to read "JEB", followed by a large, stylized flourish or "O" shape.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: James Baseman, 19836 Old York Road, White Hall, Maryland 21161
Lynne Jones, 815 Stablers Church Road, Parkton, Maryland 21120



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

March 19, 2019

AMENDED NOTICE OF ASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
 Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
 7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 16, 2019. Day 2 of this matter has been changed due to a scheduling conflict. This matter is now

ASSIGNED FOR: **MAY 9, 2019, AT 10:00 A.M. – Day 1**
 MAY 23, 2019, AT 10:00 A.M. – Day 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.
- 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.

Amended Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
March 19, 2019
Page 2

For further information, including our inclement weather policy, please visit our website
www.baltimorecountymd.gov/Agencies/appeals/index.html

**Krysundra "Sunny" Cannington
Administrator**

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Jeffrey Mayhew, Acting Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

March 5, 2019

NOTICE OF ASSIGNMENT

IN THE MATTER OF:

19-057-X

The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR:

MAY 9, 2019, AT 10:00 A.M. – Day 1

MAY 16, 2019, AT 10:00 A.M. – Day 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.
- 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).
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Krysundra "Sunny" Cannington
Administrator

Notice of Assignment
In the matter of: The Farm, LLC
Case number: 19-057-X
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Page 2

c: Counsel for Petitioner/Legal Owner
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Lessee

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Michael Mohler, Acting Director/PAI
Nancy West, Assistant County Attorney
Office of People's Counsel

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: The Farm, LLC – Legal Owner 19-057-X
 Forefront Power, LLC – Lessee

DATE: July 8, 2021

BOARD/PANEL: Andrew M. Belt, Panel Chairman
 Fred M. Lauer
 Sharonne R. Bonardi

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate a Petition for Special Exception pursuant to BCZR Sections 502.1 and 4F-102 to operate a solar facility in the RC-2 zone.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board convened for a hearing on the request to operate a solar facility in the RC-2 zone, then immediately convened for Public Deliberation.
- Prior to the hearing the parties entered into discussions to address the Protestants concerns, and the Petitioner agreed to certain conditions to satisfy those concerns.
- The Board heard proffer from Petitioners' experts demonstrating the solar facility meets the statutory requirements of BCZR Sections 502.1 and 4F-102. This testimony was unrebutted.
- The Board heard testimony from Lynne Jones on behalf of the Protestants evidencing they have reached an agreement with the Petitioners regarding the solar facility.
- The Board noted that the requested solar facility will generate under 2 megawatts of electricity, meets setback requirements, no environmental features were identified, there will be no fire, noise or smoke generated, no glare will result, there will be no impact on schools, and no impact to sewer service. There also was testimony that the statutory requirement of 10 solar facilities per district has not been exceeded.
- The Board found that the request meets the special exception requirements contained in BCZR Section 502.1 and the requirements for a solar facility contained in Section 4F-102.
- Counsel for Petitioner will prepare and submit a proposed Order to the Board, after review and acceptance by Protestants.

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.

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,

_____/s
Tammy A. Zahner

IN RE:
PETITION FOR SPECIAL EXCEPTION
(20920 Old York Road)

7th Election District
3rd Councilmanic District

The Farm LLC,
Legal Owner
Forefront Power, LLC,
Lessee

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No.: 19-057-X
*

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals (“Board”) as an appeal of both the Opinion and Order of Administrative Law Judge (“ALJ”) John E. Beverungen, dated November 27, 2018 and an Order Denying Protestants’ Motion for Reconsideration (also entered by ALJ Beverungen), dated January 8, 2019. Collectively, these decisions by the ALJ granted, with restrictions, a Petition for Special Exception for a proposed solar facility located at 20920 Old York Road. The Petition was filed by The Farm, LLC (Property Owner) and Forefront Power, LLC, Lessee.¹ Forefront is an energy company which, among other activities, constructs and operates solar facilities. An appeal of ALJ Beverugen’s Opinion and Orders was filed by Sparks Glencoe Community Planning Council Inc., Lynne Jones, Lisa Arthur, Emma Arthur and Kathleen Pieper (collectively, the “Protestants”). After some delay, the matter came in before the Board for public hearing. At that requisite public hearing the Petitioner/Property Owner was represented by Lawrence E. Schmidt, Esquire and the Protestants were not represented by counsel.

¹ Although the Petition was filed by Forefront Power, a national energy company, the lease between that entity and the Property Owner was conveyed to FFP MD Community Solar, LLC. This LLC is a business entity created by Forefront Power to develop this specific property/project. The lessees shall be referred to herein simply as “Forefront”.

Prior to the Board's hearing, the parties advised the Board that they had reached a settlement as to the issues presented. The terms of the settlement reflected an agreement by the parties that the relief requested should be granted, and that certain conditions be included in the Board's order.² Further, the parties requested, and the Board permitted, that the relevant factual evidence related to this case be presented via a proffer by Mr. Schmidt. A brief summary of those proffered facts is as follows:

FACTUAL BACKGROUND AND ANALYSIS

The subject property is a 52.4-acre tract of land located in a rural area of northern Baltimore County. The property is zoned RC 2. As originally proposed at the time that the Petition was considered by the ALJ, 19.9 acres of the subject property were proposed to encompass the area of the special exception and the proposed solar panel field was to occupy approximately six acres. However, pursuant to the settlement of the parties, the area of the special exception has been decreased to approximately 16.2 acres, although the Settlement Agreement (in order to provide flexibility as the project moves into the permitting phase) provides that the area of the special exception cannot exceed 17 acres. The area occupied by the solar panel field has likely wise been reduced. The details of the proposal, as revised, are shown on the attached site plan, attached hereto as Exhibit B. Additionally, additional and enhanced landscaping has been provided to further buffer and visually screen the proposal from adjacent properties and public roads.

The Board has entertained numerous appeals in the recent years over proposed solar facilities, particularly those facilities proposed in the northern rural areas of Baltimore County. As with the facilities proposed in those cases, the proposal here is for a solar facility developed pursuant to the State of Maryland's community solar program. BCZR Article 4F (adopted by the

² A copy of the settlement agreement is attached hereto as Exhibit A.

County Council via the enactment of Bill 37-17) regulates solar facilities in Baltimore County. BCZR Sec. 4F-102 states that solar facilities are permitted by special exception in the RC 2 zone. Additionally, BCZR Sec. 4F-104 sets forth a number of "requirements" for solar facilities. These include that such facilities cannot be on land encumbered by preservation or agricultural easement, that solar facilities cannot be located within a historic district or on land encumbered by certain environmental easements and that a landscape buffer and security fencing be provided. Additionally, solar facilities must be set back a minimum of fifty (50) feet from the tract boundary, cannot exceed twenty (20) feet in height and shall be designed to reduce glare/reflection onto adjacent properties and roads. The proffered evidence presented was that the proposed facility meets or exceeds all of these requirements as stated in BCZR Sec. 4F-104.

In addition to the requirements promulgated through Bill 37-17, the proposed special exception (as is required of all special exceptions) must satisfy the criteria in BCZR Sec. 502.1. Again, the proffered evidence was that this standard is satisfied and that the special exception proposed in this matter will not cause any detrimental impacts worse here than elsewhere in the zone. (See *Schultz v. Pritts*, 291 Md. 1 (1981))

As noted hereinabove, the parties hereto reached a settlement of their differences and consummated a settlement agreement. Under the Agreement, Forefront agrees to the following:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
- e. The area of the special exception shall be no greater than seventeen (17) acres and the number/area of proposed solar panels shall be as shown on the attached site plan in **Exhibit B**;
- f. There shall be no barbed wire used to fence/secure the area occupied by the

- solar panels;
- g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

Insofar as the Protestants, they have agreed to not opposed the special exception and not challenge or appeal any approval thereof.

Upon due consideration of the proffered testimony and evidence presented, the Board is persuaded to grant the requested relief. The Board finds that the request meets the definitional and other requirements in BCZR 4F and the special exception test set forth in BCZR 502.1 Further, the Board finds the proposed restrictions/conditions as agreed to by the parties to be reasonable and appropriate. Thus, they shall be incorporated in the Board's order.

ORDER

THEREFORE, IT IS this 28th day of September, 2021, by the Board of Appeals of Baltimore County,

ORDERED, that the Petition for Special Exception to permit a solar facility be and is hereby GRANTED; subject to the following restrictions and conditions:

- a. Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through 7-210 of the *Maryland Rules*.
- b. The proposed Solar Facility Project on the Property shall be developed as shown on the site plan attached hereto as **Exhibit B**;
- c. Landscaping shall be installed pursuant to a Landscape Plan to be approved by Baltimore County, consistent with the landscaping shown on **Exhibit B**;
- d. There shall be a two-year inspection of any proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection

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 - f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
 - g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

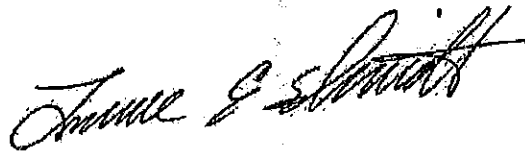
**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Andrew M. Belt, Panel Chair


Sharonne R. Bonardi


Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

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 - f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
 - g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
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**BOARD OF APPEALS
OF BALTIMORE COUNTY**

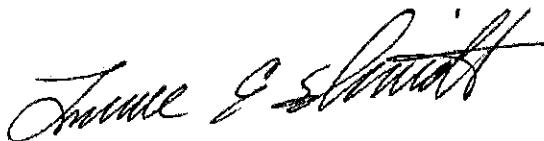
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Andrew M. Belt, Panel Chair



Sharonne R. Bonardi

see following page
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:



Lawrence E. Schmidt, Attorney for Forefront

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 - f. There shall be no barbed wire used to fence/secure the area occupied by the solar panels;
 - g. The special exception approval shall be a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - h. There shall be no use of any hazardous chemicals to control vegetation control and/or solar panel cleaning; and
 - i. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**

see previous page
Andrew M. Belt, Panel Chair

see previous page
Sharonne R. Bonardi

Fred M Lauer
Fred M. Lauer

APPROVED AS TO CONTENT AND FORM:

Lawrence E. Schmidt

Lawrence E. Schmidt, Attorney for Forefront

**SETTLEMENT
AGREEMENT**

THIS SETTLEMENT AGREEMENT (referred to hereinafter as the "Agreement") made this 9 day of August, 2021 by and between **FFP MD Community Solar, LLC**, a Delaware limited liability company ("**Forefront**") and **Sparks Glencoe Community Planning Council, Lisa Arthur, Emma Arthur, Lynne Jones, and Kathleen Pieper** (collectively "**Protestants**");

RECITALS:

WHEREAS, Forefront is the Lessee of certain real property located in the Freeland community of northern Baltimore County, known as 20920 Old York Road (the "**Property**"); and,

WHEREAS, Forefront is proposing the development of a solar facility on the Property ("**Solar Facility Project**"); and

WHEREAS, the Baltimore County Administrative Law Judge granted special exception approval of the Solar Facility Project on November 27, 2018, and issued an Order dated January 8, 2019 which denied Protestants' Motion to Reconsider (hereinafter, collectively referred to as the "**ALJ Approval Order**"); and

WHEREAS, the Protestants filed an appeal of the ALJ Approval Order to the Baltimore County Board of Appeals on February 5, 2019 ("**Protestants' Appeal**"); and

WHEREAS, the Protestants' Appeal is pending litigation at the Baltimore County Board of Appeals ("**BOA Case**"); and

WHEREAS, the parties have negotiated to resolve the outstanding issues between them and enter into this Agreement in order to fully and finally resolve the issues between them as it relates to the Solar Facility Project.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.
2. Forefront agrees to the following:
 - a. To develop the Solar Facility Project on the Property as shown on the site plan in **Exhibit A**;

- b. To enhance the landscape buffer previously proposed along the viewshed onto the Property from Old York Road as shown on **Exhibit A**;
 - c. To provide for a two-year inspection of the proposed plantings. Any and all trees/shrubs which are reported to not have survived the two-year inspection period will be replaced;
 - d. To reduce the acreage of the special exception to no greater than seventeen (17) acres and to reduce the total number of proposed solar panels, as shown on the attached site plan in **Exhibit A**;
 - e. To prohibit the use of any barbed wire on the proposed chain link fence;
 - f. To limit the Solar Facility Project to a maximum 30-year duration, it being the intent of Forefront to enter into a lease for the Property for the solar facility with a twenty (20) year term, subject to two five year lease extensions and in the event Forefront (or its successor or assigns) and the then Property Owner desire to continue solar facility operations beyond those extensions they shall be required to petition the zoning authorities of Baltimore County for such approval, which can be approved only following a public hearing and input from the community;
 - g. To prohibit the use of chemicals relating to vegetation control and solar panel cleaning; and
 - h. The use of the Property as a solar facility shall not preclude agricultural or other permitted uses elsewhere on the Property.
3. Protestants agree to the following:
- a. They shall not contest, appeal or otherwise challenge (nor support, either directly nor indirectly, any such challenge or appeal) the Solar Facility Project in the BOA Case or any future Baltimore County approvals relating to the Solar Facility Project.
4. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law.
5. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
6. Each of the parties warrants that it has the authority to enter into this Agreement and to bind itself hereby and have carefully read and understand this Agreement

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): Michael Smith

Name: Michael Smith

Title: President

Date: August 8, 2021

WITNESS:

SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL

Signature(By): _____

Name: _____

Title: _____

Date: _____

and are cognizant of the terms is conditions hereof and the obligations associated herewith.

7. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute one and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.
8. Nothing in this Agreement shall be construed or interpreted to prohibit the parties from instituting such action as they deem appropriate to enforce the provisions herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

WITNESS:

FFP MD COMMUNITY SOLAR, LLC

Signature(By): _____

Name: _____

Title: _____

Date: _____

WITNESS:

**SPARKS GLENCOE COMMUNITY
PLANNING COUNCIL**

Signature(By): *Lynne Jones*

Name: LYNNE JONES

Title: PRESIDENT

Date: 8-2-2021

WITNESS:

WITNESS:

WITNESS:

WITNESS:

LISA ARTHUR

Signature: *Lisa Arthur*
Date: 8/3/2021

EMMA ARTHUR

Signature: *Emma Arthur*
Date: 8/3/21

LYNNE JONES

Signature: _____
Date: _____

KATHLEEN PIEFER

Signature: _____
Date: _____

Approved as to content and form:

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

WITNESS:

WITNESS:

WITNESS:

WITNESS:

[Signature]

LISA ARTHUR

Signature: _____

Date: _____

EMMA ARTHUR

Signature: _____

Date: _____

LYNNE JONES

Signature: *[Signature]*

Date: 8.2.21

KATHLEEN PIEPER

Signature: *[Signature]*

Date: 8-2-2021

Approved as to content and form:

[Signature]

LAWRENCE E. SCHMIDT, Esquire
For FFP MD Community Solar, LLC

EXHIBIT

Site Plan (attached)
Referred to herein as Exhibit A



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

September 28, 2021

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: *In the Matter of: The Farm, LLC – Legal Owner*
Forefront Power, LLC – Lessee
Case No.: 19-057-X

Dear Mr. Schmidt:

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,

A handwritten signature in cursive script that reads "Sunny Cannington Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure

c: Dennis Danielczyk, Jr./The Farm, LLC
Brian Maliszewski/Forefront Power, LLC
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Stephen Lafferty, Director/Office of Planning
C. Pete Gutwald, Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
James R. Benjamin, Jr., County Attorney/Office of Law

Sparks Glencoe Community Planning Council
Lisa Arthur
Emma Arthur
Lynne Jones
Kathleen Pieper



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 20920 Old York Road which is presently zoned RC 2
 Deed References: 25248/00682 10 Digit Tax Account # 0708001050
 Property Owner(s) Printed Name(s) The Farm, 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. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
 Please 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:

Brian Maliszewski, Authorized Rep. of Forefront Power, LLC

Name- Type or Print

Signature

100 Montgomery Street, Suite 725 San Francisco CA

Mailing Address City State

94104 / 908.399.6967 / bmaliszewski@forefrontpower.com

Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Dennis Danielczyk, Jr. Authorized Rep. of The Farm, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Shore Road Baltimore MD

Mailing Address City State

21220

Zip Code Telephone # Email Address

Representative to be contacted:

Lawrence E. Schmidt, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200 Towson MD

Mailing Address City State

21204 / (410) 821-0070 / lschmidt@sgs-law.com

Zip Code Telephone # Email Address

CASE NUMBER 2019-0057-X Filing Date 8/20/18

Do Not Schedule Dates: 11/27/18

Date

Reviewer SD

REV. 10/4/11

By SD

ORDER RECEIVED FOR FILING

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

20920 Old York Road
3rd Councilmanic District
7th Election District

Special Exception Relief:

1. To grant Special Exception relief for a solar facility pursuant to BCZR § 4F-102 (as established by Bill 37-17); and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

Item #0057



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

April 30, 2019

NOTICE OF POSTPONEMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
 Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
 7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

This matter was scheduled for hearing on May 9 and 23, 2019 and has been postponed by request of counsel. This matter will be rescheduled to later dates.

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

Notice of Postponement
In the matter of: The Farm, LLC
Case number: 19-057-X
April 30, 2019
Page 2

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Pete Gutwald, Director/Department of Planning
Lawrence M. Stahl, Managing Administrative Law Judge
Michael Field, County Attorney, Office of Law
Michael Mohler, Acting Director/PAI
Nancy 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

November 23, 2020

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
19-057-X Forefront Power, LLC – Lessee
20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: **JANUARY 27, 2021, AT 10:00 A.M. – Day 1**
FEBRUARY 2, 2021, AT 10:00 A.M. – Day 2
AND **FEBRUARY 4, 2021, AT 10:00 A.M. – Day 3**

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least 48 hours before the hearing to appealsboard@baltimorecountymd.gov in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
November 23, 2020
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Counsel for Protestants/Appellants
Protestants/Appellants

: H. Barnes Mowell, Esquire
: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

C. Peter Gutwald, Director/Department of Planning
James R. Benjamin, Jr., County Attorney, Office of Law
Michael D. Mallinoff, Director/PAI
Nancy C. West, Assistant County Attorney
Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge



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 14, 2021

NOTICE OF REASSIGNMENT

IN THE MATTER OF: The Farm, LLC – Legal Owner
Forefront Power, LLC – Lessee
19-057-X 20920 Old York Road
7th Election District; 3rd Councilmanic District

Re: Petition for Special Exception pursuant to BCZR Section 4F-102 to operate a solar facility in the RC-2 zone.

11/27/18 Opinion and Order of the Administrative Law Judge wherein the Petition for Special Exception was GRANTED, with conditions.

1/8/19 Administrative Law Judge's Order on Protestants' Motion for Reconsideration wherein the Motion was DENIED.

ASSIGNED FOR: JULY 8, 2021, AT 1:00 P.M.

The above scheduled hearing will be held remotely using WebEx for audio and video participation. **Call-in information and a link to the hearing will be posted on our web calendar at www.baltimorecountymd.gov/Agencies/appeals/index.html the night before.**

A complete set of exhibits must be emailed at least **48 hours before the hearing to appealsboard@baltimorecountymd.gov** in a format that complies with MDEC (Maryland Electronic Court) standards.

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 require special accommodations, please contact this office at least one week prior to hearing date.

Notice of Reassignment
In the matter of: The Farm, LLC
Case number: 19-057-X
June 14, 2021
Page 2

If you do not have access to a computer or smart device, please contact our office for the call-in information the day before the scheduled hearing.

Krysundra Cannington, Administrator

c: Counsel for Petitioner/Legal Owner
Petitioner/Legal Owner
Lessee

: Lawrence E. Schmidt, Esquire
: Dennis Danielczyk, Jr./The Farm, LLC
: Forefront Power, LLC/Brian Maliszewski

Protestants/Appellants

: Sparks Glencoe Community Planning Council, Inc.,
Lisa Arthur, Emma Arthur, Lynne Jones,
Kathleen Pieper

T. Andrew Brown, P.E./DS Thaler & Associates, LLC

Office of People's Counsel
Paul M. Mayhew, Managing Administrative Law Judge
Steve Lafferty, Director/Department of Planning
C. Peter Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney
Nancy C. West, Assistant County Attorney

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
JASON T. VETTORI
MARIELA C. D'ALESSIO*
MELISSA L. ENGLISH**

* Admitted in MD, PA, FL
** Admitted in MD, NC

ROBERT B. HAMILTON
NICOLE LAMBDIN
CARMELO D. MORABITO
ZACHARY J. WILKINS
of counsel:
EUGENE A. ARBAUGH, JR.
MARY G. LOKER
STEPHEN J. NOLAN

March 16, 2020



Sent via First Class Mail

Krysundra L. Cannington
Board of Appeals of Baltimore County
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

**Re: In the matter of: The Farm, LLC – Legal Owner
Forefront Power, LLC - 20920 Old York Road
Case No. 19-057-X**

Dear Ms. Cannington:

This is in response to your letter of February 26, 2020 regarding the above matter. As you know, proceedings before the Board were previously indefinitely postponed at the request of the Petitioner. The postponement was requested because of a contemplated revision to the layout of the proposed solar facility.

Please be advised that my clients, The Farm (property owner) and Forefront Power LLC (applicant) are now desirous of moving forward with the project and hereby request that the continuance previously granted be lifted and that this matter be scheduled for hearing before the Board. I am pleased to coordinate dates with you and Mr. Mowell (attorney of the Protestants/ Appellants) if appropriate.

For your reference, I am enclosing a copy of the current site plan for this project. In order to address certain of the objections of the Protestants and for other reasons related to the capacity and function of the proposed facility, please note that the project has been "downsized" from its previous footprint. In lieu of four separate rows of solar panels, the proposal now indicates only two rows. Additionally, in order to meet Fire Department access requirements, an internal access road for emergency equipment has been relocated so that all panels are within a short distance thereof. This revised plan will be submitted to the Board at its de novo hearing and Petitioners will request that it be approved in connection with the Petition for Special Exception.

Krysundra L. Cannington

March 16, 2020

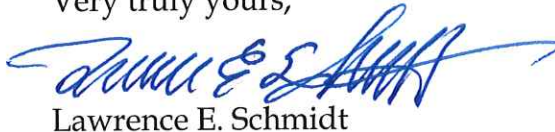
Page 2

Notwithstanding the modest downsizing of the proposal, the project is largely the same as originally submitted and approved by the ALJ. The area and location of the special exception within the property is the same. However, the "footprint" of the actual panel field is reduced in order to provide greater setbacks and buffers to adjacent properties.

As noted above, the attached site plan will be offered to the Board at its hearing as an evidentiary exhibit and Petitioners' request for approval will be of that plan. In that proceedings before the Board are de novo, I would request that the Board retain jurisdiction of this matter and not remand the matter to the ALJ. In addition to the de novo nature of this appeal, please note the at the relief requested is the same (i.e. a petition for special exception, there are no variances requested), the property and parties remain the same, the proposal is essentially the same as approved by the ALJ and that the changes reduce (and do not enlarge) the area of the facility and impacts of the project.

I appreciate and thank you for your patience with this matter. I hope that the Protestants will withdraw their opposition to this project in view of the efforts made by my clients to reduce its impact. However, I am certain that Mr. Mowell will advise of his position and I have copied him with this letter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lawrence E. Schmidt", with a stylized flourish extending to the right.

Lawrence E. Schmidt

LES/am

Enclosure

cc: H. Barnes Mowell, Esquire
Andrew Brown, D.S. Thaler
Forefront Power, LLC

Address List

Petitioner:

Dennis Danielczyk, Jr.
The Farm, LLC
1600 Shore Road
Baltimore, MD 21220
Legal Owner

Brian Maliszewski
Forefront Power, LLC
100 Montgomery Street, Suite 725
San Francisco, CA 94104
Lessee

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

T. Andrew Brown, P.E.
DS Thaler & Assoc., LLC
7115 Ambassador Road
P.O. Box 47428
Baltimore, MD 21244-7428

Protestants/Appellants:

Sparks Glencoe Community
Planning Council, Inc.
Box 937
Sparks, MD 21152

Lisa Arthur
19500 Burke Road
White Hall, MD 21161

Emma Arthur
19500 Burke Road
White Hall, MD 21161

Lynne Jones
815 Stablers Church Road
Parkton, MD 21120

Kathleen Pieper
4310 Beckleystown Road
Hampstead, MD 21074

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

Withdrew Appearance 12/22/2020

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Jeff Mayhew, Acting Director/Department of Planning
Michael Mohler, Acting Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

February 26, 2020

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement of this matter, to which Protestants did not object.

Despite a September 18, 2019 status letter, to date, we have not heard from anyone regarding this matter. We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

Very truly yours,

Krysundra Cannington
Administrator

Duplicate original

September 18, 2019

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

H. Barnes Mowell, Esquire
H. Barnes Mowell, P.A.
16295 York Road
Monkton, MD 21111

Re: In the matter of: The Farm, LLC - Legal Owner
Forefront Power, LLC - Lessee
Case No: 19-057-X

Dear Counsel:

Hearings in the above referenced matter were scheduled before the Board in May of 2019. Petitioners requested a postponement to reevaluate their case, to which Protestants did not object.

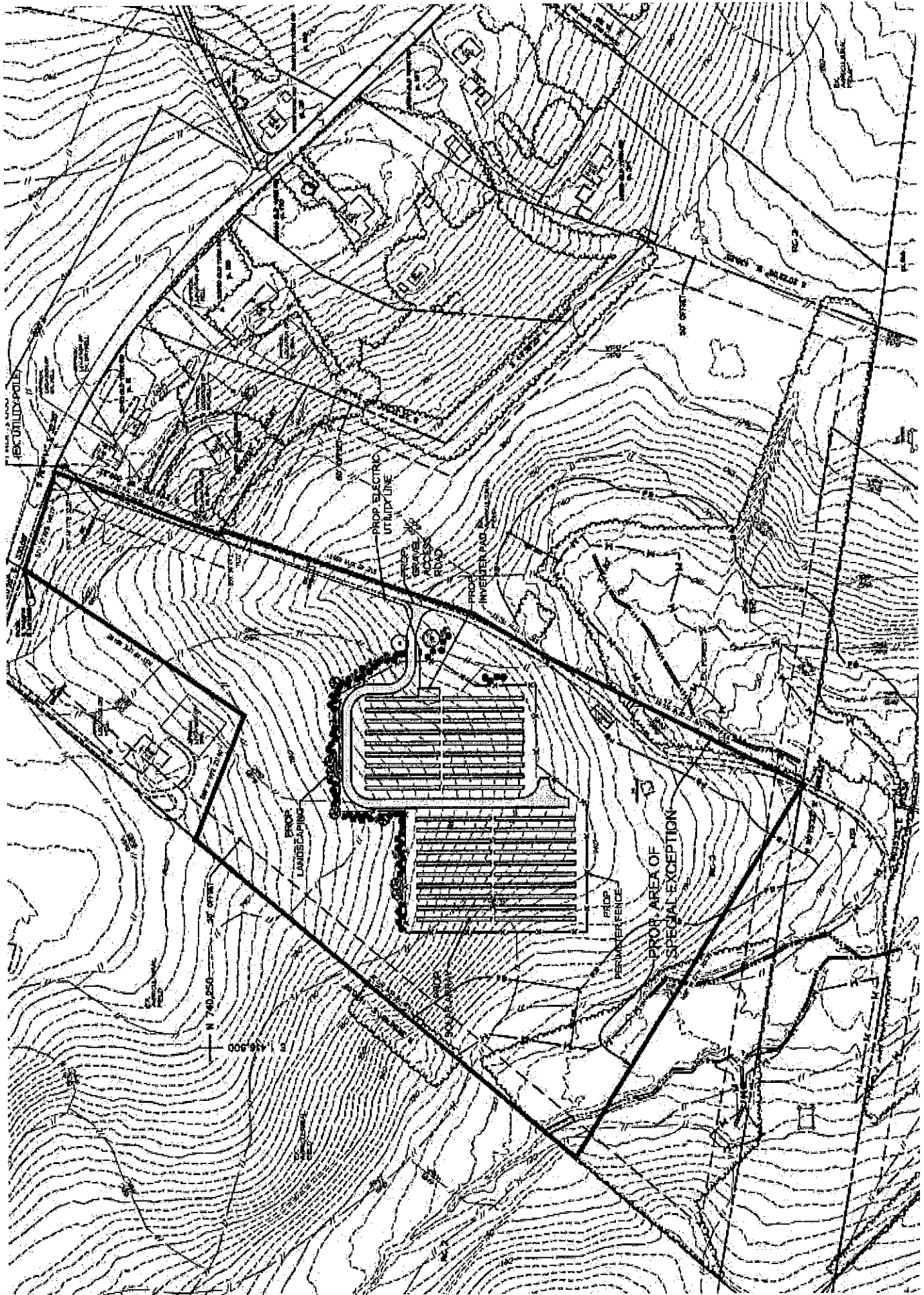
We kindly request the status of this matter.

Thank you, in advance, for your prompt response.

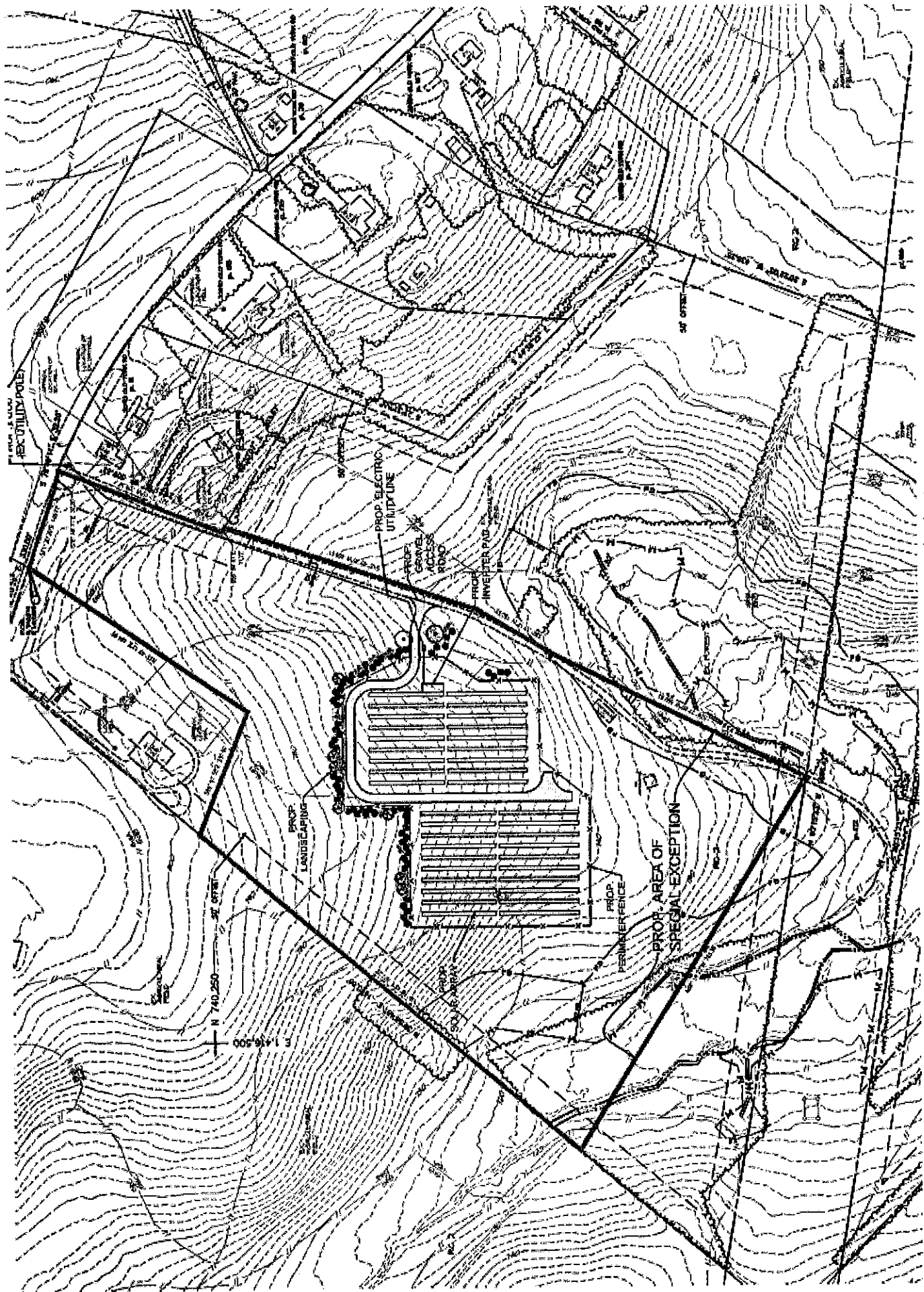
Very truly yours,

Krysundra Cannington
Administrator

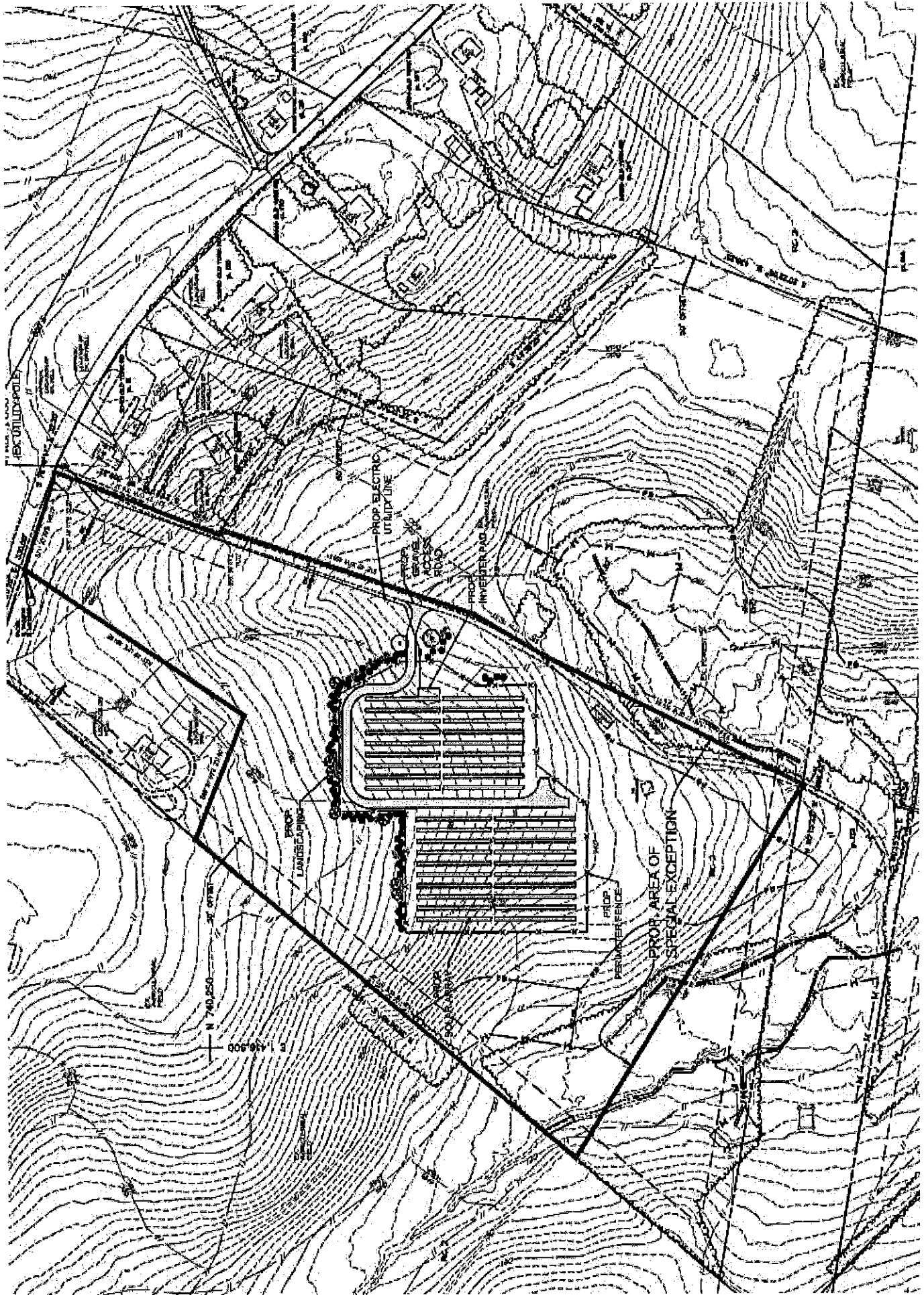
Duplicate original



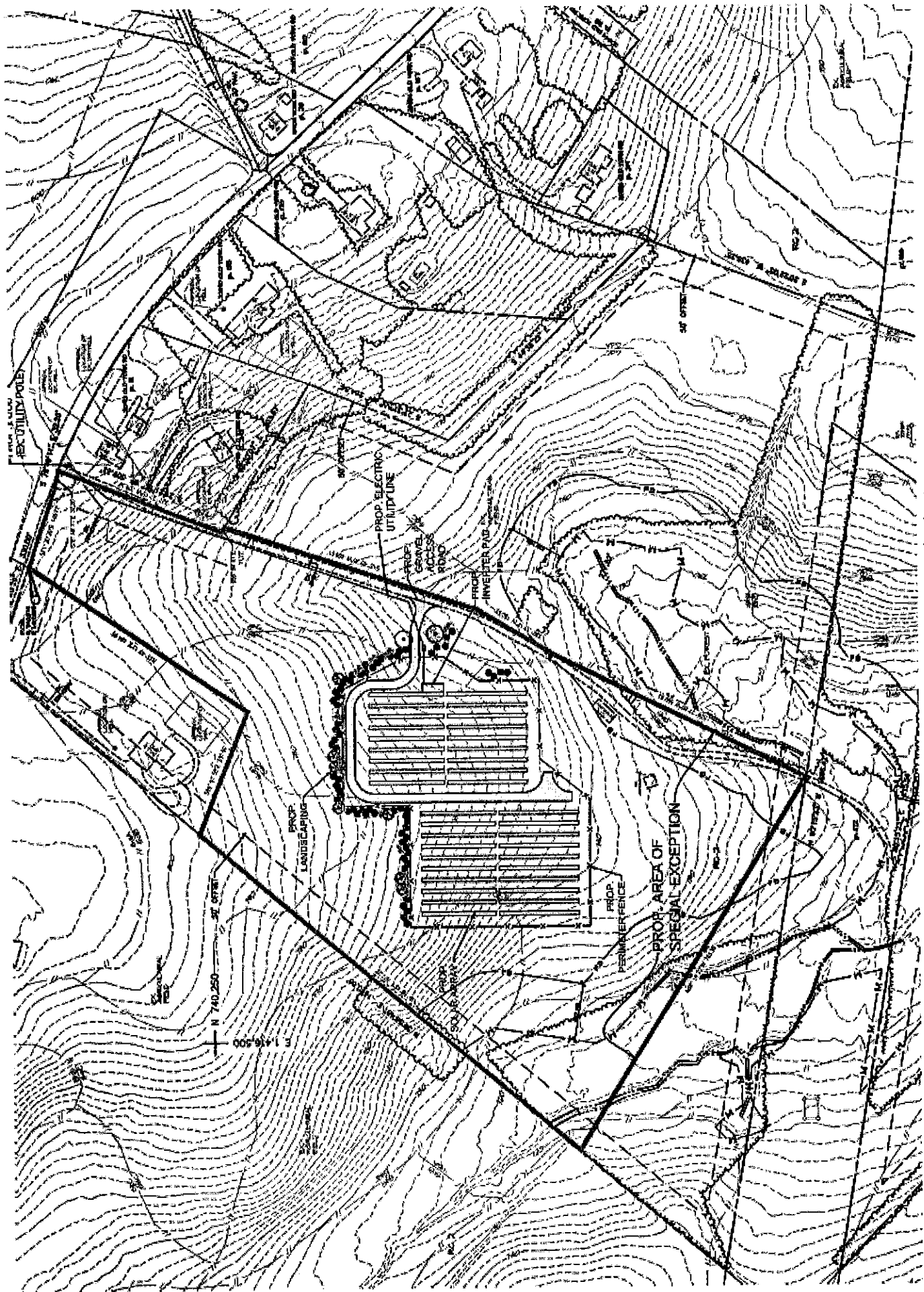
Revised plan with landscaping 1/29/2021



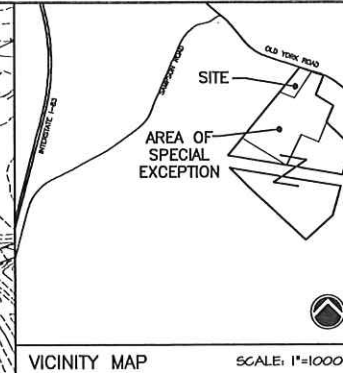
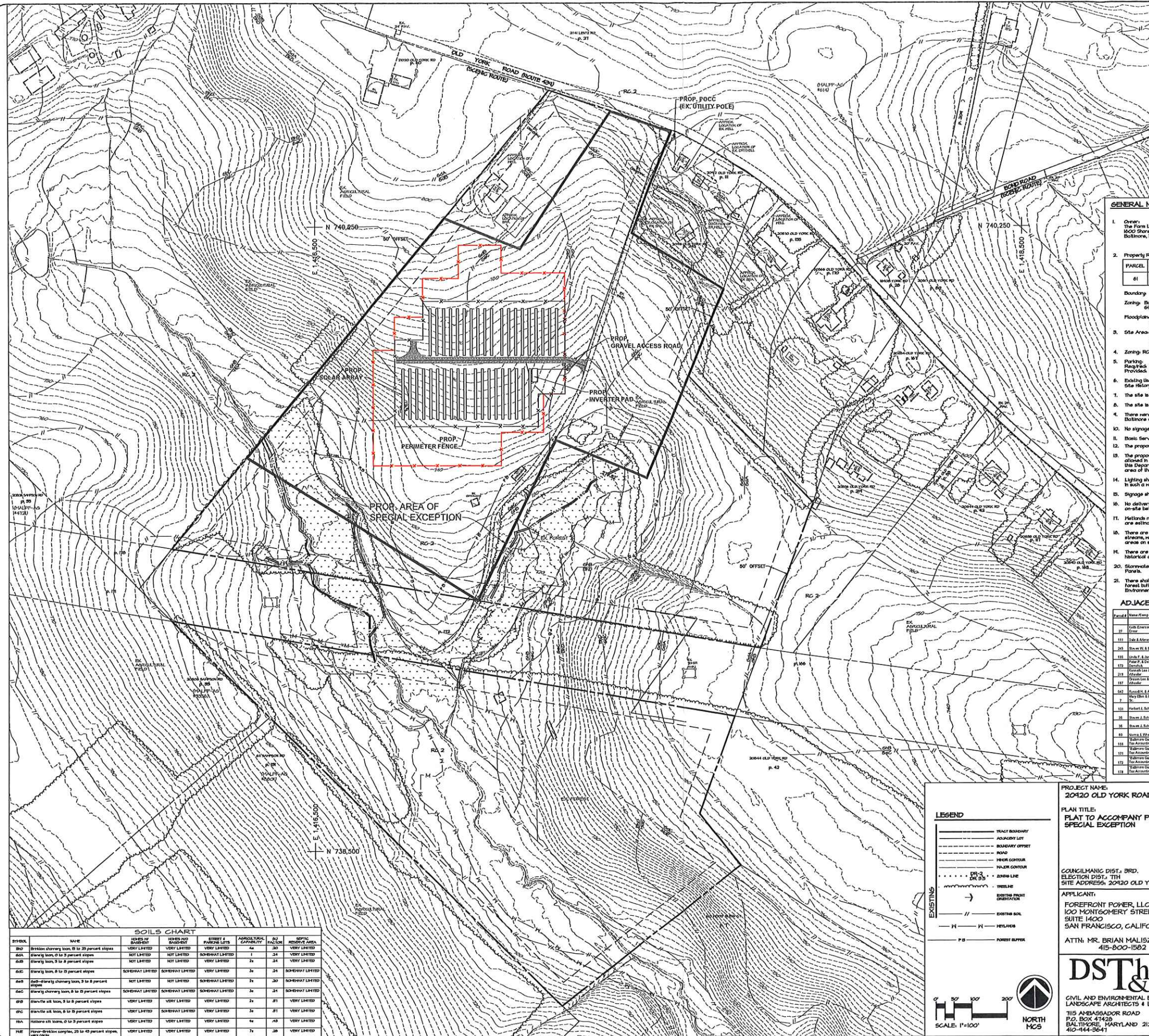
Revised plan with landscaping 1/29/2021



Revised plan with landscaping 1/29/2021



Revised plan with landscaping 1/29/2021



PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
20920 OLD YORK ROAD

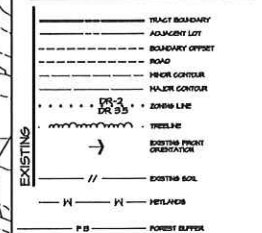
GENERAL NOTES

1. Owner: The Farm LLC
100 Shore Road
Baltimore, MD 21220
- Applicant: Harford Power, LLC
100 Montgomery Street
Suite 200
San Francisco, CA 94104
ATTN: Mr. Brian Holtscheld
415.800.8802
- Plan Prepared by:
D.B. Butler & Associates, LLC
115 Antebellum Road
P.O. Box 41128
Baltimore, MD 21244
ATTN: Brian Holtscheld
410-444-3641
2. Property Reference:
- | PARCEL | TAX ACCOUNT # | TAX MAP/GRID | YIELD SINCE | DEED | ADG MAP |
|--------|---------------|--------------|-------------|-----------|-------------------|
| 61 | 0700001050 | T11 | 2007 | 29248,682 | 36(4-6),
4N(3) |
- Boundary: Deed Plot
- Zoning: Baltimore County 206 Zoning Map,
615 the.001C2
- Floodplain: There is no floodplain on site,
(per FEMA Panel 505 of 505 Map #24000100259)
3. Site Area: 52.4 Acs (61.5
52.4 Acs) (Area)
(Area of Special Exception: N/A Acs)
4. Zoning: RG-2
5. Planning:
Approved: O
6. Existing Use is Agricultural & Residential.
Site History N/A (per Baltimore County My Neighborhood Map)
7. The site is not located within the Chesapeake Bay Critical Area.
8. The site is located beyond the Urban Rural Demarcation Line (URDL).
9. There were no commercial permits or active zoning violations found on file with Baltimore County.
10. No signage is proposed.
11. Basic Services: N/A - Site is beyond the URDL.
12. The proposed solar facility will be subject to BCRD §§4-102.
13. The proposed solar facility will not exceed the maximum permitted number of facilities allowed in the respective geographic district. If approved, Petitioners shall submit to this Department at the time of submitting permit application the final tract location and area of the facility by coordinate data.
14. Lighting shall be limited to what is required for safety purposes only and will be shielded such a way so as to have minimal spillage onto neighboring properties.
15. Signage shall be limited to what is necessary for safety and security purposes.
16. No deliveries or on-road materials which may generate excessive noise may occur on-site between the hours of 8 PM through 6 AM.
17. Wetlands north of pavements have been field located. Wetlands south of pavements are not extracted.
18. There are slopes greater than 10% for areas adjacent to and within 500 feet of adjacent wetlands or other bodies of water and slopes greater than 25% for all other areas on site.
19. There are no known rare species, threatened species or endangered species habitat, historical or archeological areas on site.
20. Stormwater management to be in compliance with HDE Design guidance for Solar
21. There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of

ADJACENT OWNERS (WITHIN VICINITY OF SITE)

Parade	Company Name	Address	City	State	Zip Code	Lat/Lon	Dist. 1	Land Use
24	Garrett Enterprises & Fleas LLC	21401 Lewis Road	Patuxent	MD	21128-0249	47.656444, -76.617177	46.6171	Agriculture
111	Gar & Edna's Store	21000 Oak View	Patuxent	MD	21104-0000	47.180400, -76.617177	46.6171	Residential
25	Garrett, M. & Robert D. Gar	21000 Oak View	Patuxent	MD	21104-0000	47.180400, -76.617177	46.6171	Residential
112	John P. & Jessica A. Garvin	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
113	Paul & P. C. Garvin	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
114	Garwood Lee & Hazel Lee	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
115	Garwood Lee & Emily A.	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
116	Garrison Lee & Emily A.	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
117	Georgell, C. & Anne E. Geier	20300 Oak View	Patuxent	MD	21103-0137	47.180777, -76.617177	46.6171	Residential
118	Walter D. & P. W. Geier	1104 Park Lane	Schmertz	MD	21156-0000	47.102129, -76.617177	46.6171	Agriculture
119	Geier, Schaefer, Jr.	20100 Sempson	Patuxent	MD	21103-0284	47.102000, -76.617177	46.6171	Residential
120	Geier & Schaefer	20100 Sempson	Patuxent	MD	21103-0284	47.102000, -76.617177	46.6171	Residential
121	Geier & Schaefer	20100 Sempson	Patuxent	MD	21103-0284	47.102000, -76.617177	46.6171	Residential
122	Geier & Schaefer	20100 Sempson	Patuxent	MD	21103-0284	47.102000, -76.617177	46.6171	Residential
123	Geier & Schaefer	21100 Oak View	Patuxent	MD	21104-0000	47.180400, -76.617177	46.6171	Residential
124	Robinson Gas & Electric Co. Inc. Robinson Gas & Electric Co. Inc.	700 E. Main	Edinburg	MD	21034-1475	47.222222, -76.617177	46.6171	Residential
125	Robinson Gas & Electric Co. Inc. Robinson Gas & Electric Co. Inc.	700 E. Main	Edinburg	MD	21034-1475	47.222222, -76.617177	46.6171	Residential
126	Robinson Gas & Electric Co. Inc. Robinson Gas & Electric Co. Inc.	700 E. Main	Edinburg	MD	21034-1475	47.222222, -76.617177	46.6171	Residential
127	Robinson Gas & Electric Co. Inc. Robinson Gas & Electric Co. Inc.	700 E. Main	Edinburg	MD	21034-1475	47.222222, -76.617177	46.6171	Residential
128	Robinson Gas & Electric Co. Inc. Robinson Gas & Electric Co. Inc.	700 E. Main	Edinburg	MD	21034-1475	47.222222, -76.617177	46.6171	Residential

LEGEND



PROJECT NAME:
20920 OLD YORK ROAD

PLAN TITLE:
FLAT TO ACCOMPANY PETITION FOR
SPECIAL EXCEPTION

COUNCILMANIC DIST. 3RD.
ELECTION DIST. 1TH
SITE ADDRESS: 20920 OLD YORK ROAD

APPLICANT:
FOREFRONT POWER, LLC
100 MONTGOMERY STREET
SUITE 1400
SAN FRANCISCO, CALIFORNIA 94104

ATTN: MR. BRIAN MALISZEWSKI
415-800-1502

Special Exception Relief:

1. To grant Special Exception relief for solar facility pursuant to BGR 2-4F-102 (as established by Bill 3 and
2. For such other and further relief may be required by the Administrative Law Judge for Baltimore County

DSThaler
& ASSOC., LLC

CIVIL AND ENVIRONMENTAL ENGINEERS, SURVEYORS,
LANDSCAPE ARCHITECTS & LAND PLANNERS

7115 AMBASSADOR ROAD
P.O. BOX 47428
BALTIMORE, MARYLAND 21244-7428
410-444-3641 www.dsthaller.com

DATE: 2/3/2020
SCALE: 1"=100'
C.I.: 2'
PROJ. NO.: 04354
SHEET 1 OF 1

