



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

December 16, 2024

Lawrence E. Schmidt, Esquire – lschmidt@sgs-law.com
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

RE: Petition for Special Exception
Case No. 2024-0223-X
Property: 21710 York Road

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order 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 that reads "Maureen E. Murphy". The signature is written in a cursive style with a large, stylized "M" and "E".

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm
Enclosure
C: See Next Page -

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IN RE: PETITION FOR SPECIAL EXCEPTION*	BEFORE THE
(21710 York Road)	
7th Election District	*
3rd Council District	
Rebecca Phillips	*
Legal Owner	
MD Solar 6000, LLC	*
Contract Purchaser/Lessee	
Petitioners	*
	Case No. 2024-0223-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 Rebecca Phillips, legal owner, and MD Solar 6000, LLC, contract purchaser/lessee (collectively, the “Petitioners”), for the property located at 21710 York Road, Freeland (the “Property”). The Petition for Special Exception was filed pursuant to Baltimore County Zoning Regulations (“BCZR”), §4F-102(A) to permit a solar facility.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing on December 2, 2024. The Petition was properly advertised and posted. Alan Phillips, representative for the legal owner, and Cecelia Stephens of Light Star Renewables, LLC (Pet. Ex. 7), attended the hearing on behalf of the Petitioners, along with Joshua T. Sharon, PE of Morris & Ritchie Associates, LLC, the engineering firm who prepared and sealed a site plan (the “Site Plan”) (Pet. Ex. 1), Iain Ward, an expert with Solar AG Services (Pet. Ex. 8), and Stephen Barrett, a glare expert with Barrett Energy Resources Group (Pet. Ex. 9). Lawrence Schmidt, Esquire of Smith, Gildea & Schmidt, LLC, represented the Petitioners. Protestants and interested citizens who testified and/or sought information were: Renee Hamidi, with Valleys Planning Council (“VPC”); Lynne Jones with Sparks Glencoe Community Planning Council (“SGCPC”); Kevin and Clare

Fabula, 19960 Gore Mill Rd., Freeland; Jara Meszaros, 21514 York Rd.; Ouida Walker, 2501 Gibson Rd., White Hall; and Robin Evick, 20001 Gore Mill Rd, Freeland.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), Development Plans Review (“DPR”)/Department of Public Works and Transportation (“DPWT”), and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief.

FINDINGS OF FACT

The Property is 32.23 acres +/- consisting of three (3) unimproved parcels. The largest parcel (25 acres +/-) sits the western corner of Freeland Rd. and York Rd (MD Rt 45) (the “Largest Parcel”); the middle parcel sits between York Rd. and I-83 (the “Middle Parcel”); and the smallest parcel is triangular in shape, located east of I-83 (the “Smallest Parcel”), unimproved land to the east between York Rd. and I-83. The Property is located just south of the Maryland-Pennsylvania line. To the south of Freeland Rd. are commercial uses including the Penn-Mar building complex which operates a job placement business. Aerial photographs provide an overview of the Property within the broader neighborhood. (Pet. Ex. 2). The Property is zoned Agricultural (RC 2) and is leased to a farmer who grows soy and corn. Street view photographs were also provided. (Pet. Ex. 3A-3H).

Petitioners are seeking to install an agrivoltaic solar facility on only the largest parcel. It was explained that agrivoltaics is the concurrent use of land for both solar generation and agriculture. The Special Exception area would encompass only 13 of the 25 acres comprising the Largest Parcel. Cecelia Stephens, a development manager with Lightstar Renewables, LLC located in Boston, MA, explained that she oversees the solar project from permitting through connection to the power grid. (Pet. Ex. 7). Light Star, a subsidiary of Maryland Solar 2000, LLC,

will develop and operate the solar facility. Light Star entered into a lease with the legal owner on May 21, 2022. While the initial proposal was to install solar panels on both the Middle and Largest Parcels, that project was downsized when it was determined that the electric infrastructure could not support 3MG of AC electricity. Ms. Stephens explained that the solar panels absorb sunlight and convert it into electrical current which can then be used in homes and businesses. The Community Solar Facility Program allows subscribers to purchase shares of the power generated which then provides subscribers with a credit on their electrical bills. The BGE power grid is located on the west side of York Rd. making connection from this solar facility to that infrastructure readily accessible.

Ms. Stephens also explained that agrivoltaic solar facilities permit low level crops like soy or rye to be grown beneath the panels. The rows of solar panels are adequately spaced to allow farm equipment to drive between rows and access the crops. She confirmed that the panels are made of silicone and are not hazardous. There is no cleaning or maintenance of the panels needed; operation of the solar facility is conducted remotely. At times, technical replacement or servicing of the panels may be needed. There will not be any employee working on the Property and no buildings will be constructed. There is no lighting proposed or needed for the solar facility. She further explained that there will be no glare or reflection from the panels as they are designed to absorb sunlight, not reflect it. Ms. Stephens testified that the proposed use will be quiet, will not cause congestion or traffic on the surrounding roads. The maximum height of the panels at full-tilt will be 9 ft. It was her opinion that the proposed use will not be detrimental to the health, safety or general welfare of the area or on neighboring farms.

Iain Ward, the Chief Operating Officer of Solar AG Services, added that the dual-use of a solar facility is beneficial to both energy and crop production. (Pet. Ex. 8). Mr. Ward added that,

for the last 12 years, agrivoltaic solar research has been conducted by the National Department of Energy. In this Case, the panels will be single axis tracking panels which rotate with the sun from east to west, in order to maximize sun absorption. The panels are also designed to collect sun from both the ground and the sky. They can also be programmed to permit sun to reach the crops below the panels.

Joshua Sharon, PE of Morris Ritchie Associates, Inc. was accepted as an expert in civil engineering. (Pet. Ex. 6). He prepared and sealed the Site Plan. (Pet. Ex. 1). Mr. Sharon confirmed that only 40% of the 25 acres on the Largest Parcel will be the Special Exception area. As a result, it was Mr. Sharon's opinion that this solar facility would qualify for an exemption under BCZR, §4F-103.A because it is accessory to an agricultural use.

With regard to the requirements in BCZR, Article 4F, Mr. Sharon testified that the solar facility would produce no more than 2 MW of AC electricity. He further confirmed that this facility will be one of the 10 facilities for Councilmanic District 3. (Pet. Ex. 13). Additionally, in regard to the requirements in BCZR, §4F-104, Mr. Sharon testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or a rural legacy easement. (BCZR, §4F-104.A.1). It is not located in a Baltimore County Historic District or on a property that is listed on the Baltimore County Final Landmarks list. (BCZR, §4F-104.A.2). Presently, Mr. Sharon explained that the portion of the land on which the solar facility is proposed is not in a forest conservation easement, or in a designated conservancy area, and is not zoned RC4 or RC6. (BCZR, §4F-104.A.3). As shown on the Site Plan, the solar facility will be setback a minimum of 50 ft. from the tract boundary, excluding landscaping, security fencing, wiring or power lines. (BCZR, §4F-104.A.4). Mr. Sharon testified that the height of the solar panels at full tilt will not exceed 20 ft. (BCZR, §4F-104.A.5). In regard to the required

landscape buffer, Schematic and Final Landscape Plans will be filed with the Baltimore County Landscape Architect to ensure all landscaped buffer requirements are met. (BCZR, §4F-104.A.6). He mentioned the plantings may include Evergreen trees and shrubs and will provide a natural screening of high quality vegetation to protect the Scenic Route designation along York Rd. There will not be any clearing of vegetation as the Special Exception area is already cleared for agriculture use. Mr. Sharon also indicated that DPR has requested a black vinyl-coated chain link fence for security purposes and the Petitioner does not object to same.

In regard to the Special Exception factors, it was Mr. Sharon's opinion that the proposed solar facility at the Property will not be detrimental to the health, safety or general welfare of the area. This is a ground-mounted solar facility and will be removed at the end of the lease term. There will be no impervious surfaces such as paving and no lighting will be installed. The proposed use will not create congestion in roads, streets or alleys therein or tend to overcrowd the land or cause undue concentration of population because there are at most, occasional trips to the solar facility for repair if same cannot be performed remotely. He mentioned that this is not a use which will generate people coming to the Property because the solar facility will be unoccupied.

He testified that the use will not create a potential hazard from fire, panic or other danger as the solar panels are not made of hazardous materials. The solar facility will have no impact on adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. At 9 ft. maximum height, and separated from adjacent farm and from commercial uses, the solar panels at full-tilt will not cast shadows or block air flow, and therefore will not interfere with adequate light and air. Mr. Sharon opined that the proposed solar facility is consistent with the purposes of the Property's zoning

classification and will not, in any way, be inconsistent with the spirit and intent of BCZR, Article 4F, as this use is specifically permitted by Special Exception in an RC2 zone. The solar facility is also consistent with the impermeable surface and vegetative retention provisions of the BCZR as rain water will flow off the solar panels, will fall onto crops and/or will sink into the ground.

Mr. Sharon testified that the use will not be detrimental to the environmental and natural resources of the site or vicinity including forests, streams, wetlands, aquifers and floodplains in an RC2 zone, as the existing forested area on the Largest Parcel is outside of the Special Exception area and will be protected by way of recorded easement(s). There are no wetlands or floodplains within the Special Exception area.

Stephen Barrett, with Barrett Energy Resources Group, was accepted as an expert in glare analysis. (Pet. Ex. 9). Mr. Barrett prepared a Glare Analysis Report dated November 26, 2024 which reflected the current proposal for a solar facility on the Largest Parcel. (Pet. Ex. 14). Mr. Barrett applied a computer modeling tool called the Solar Glare Hazard Analysis Tool which is the same used by the US Department of Energy and Federal Aviation to determine the level of glare at airports. To conduct the Glare Analysis, Mr. Barrett explained that he selected 22 stationary receptors from business and residences and 5 receptors on surrounding roads. The Glare Analysis Report confirms that there will be no glare from any of the 27 receptors surrounding this solar facility. (Pet. Ex. 14).

Alan Phillips who testified for the legal owner, Rebecca Phillips, stated that the Phillips family farmed the Property until the 1960s, when they began leasing the land to a farmer. He indicated that, over the years, the Phillips family has rejected offers from solar companies. Upon learning about the agrivoltaic type of solar facility, the Phillips Family became interested in that

the Property could be simultaneously used for both solar and farming. Mr. Phillips testified that there will not be any signage, lighting or deliveries to the Property.

Community Witnesses

Renee Hamidi, Executive Director of the VPC, indicated that she was testifying on behalf of the VPC and individually. However, she explained that this Property is *not* within the geographic boundaries of the VPC and that her home address is 1505 Melbourne Ave., Towson. Those facts notwithstanding, Ms. Hamidi was permitted to ask questions about the proposed use.

Lynne Jones, member of the SGCP, was present to testify on behalf of SGCP and individually. Ms. Jones provided her home address of 815 Stablers Church Rd., Parkton. She verified that the Property was *not* located within the SGCP geographic boundaries. Those facts notwithstanding, Ms. Jones testified that while SGCP is in favor of solar facilities, it is not in favor of solar facilities on prime and productive soils. Ms. Jones added that she met with Ms. Stephens and Mr. Ward in County Council office and had received information about this project. In response to her questions, Ms. Stephens explained that the Phillips family would be entering into a 20-year lease with a 5-year extension. Light Star will be working with the farmer who leases the land to make sure that the farm equipment fits between the solar panel rows. Ms. Jones requested that an agricultural style fence be installed rather than a black vinyl chain link fence as requested by DPR. However, Light Star did not object to installing an agricultural type fence. Ms. Jones also requested that Light Star provide a bond equal to 125% of the installation costs rather than the amount required by the County Administrative Officer as set forth in BCZR, §4F-105. Light Star did not agree to the additional bond amount. Ms. Jones requested that Light Star agree to a 2-3 year maintenance period for the perimeter landscaping. Mr. Sharon responded that a 1-year landscape maintenance period is required. Finally, Ms. Jones sought a condition in the Order

that if the Special Exception area were expanded in the future, that Petitioners would be required to file a new zoning Petition to amend the Site Plan.

Kevin Fabula, 19960 Gore Mill Rd., testified in opposition to the solar facility. He highlighted that Light Star has only 2 agrivoltaic solar facilities in construction and zero in production. In his view, agrivoltaic solar facilities are not practical and that prime and productive farmland should be preserved.

Jara Meszaros, 21514 York Rd., objected to the proposed use and described it as an ‘eyesore.’

Ouida Walker, 2501 Gibson Rd., White Hall, also objected to a solar facility being installed on prime and productive soil. Ms. Walker warned that only the legal owner of the Property, not the farmer, will receive compensation for the solar facility. Ms. Walker believes that this location is also not appropriate due to its close proximity to the MD line.

Robin Evick, 20001 Gore Mill Rd., testified in support of the project emphasizing that it is the energy production for the future and the Property is situated near to commercial properties.

SPECIAL EXCEPTION

On July 17, 2017, the County Council enacted Bill 37-17 permitting solar facilities by Special Exception in certain zones, including RC2. BCZR, §4F-102.A. The County Council imposed limits on the number of facilities per Councilmanic District (*i.e.*, 10 per district), and on the maximum area for each facility (*i.e.*, the amount of acreage that produces no more than 2 megawatts alternating current (AC) of electricity). BCZR, §4F-102.B.1 and §4F-102.B.2. The Office of Zoning Review (“OZR”) maintains a list of applications, Order’s approvals or denials of solar facilities and number of building permits issued per Councilmanic District.

In addition to the Special Exception factors, there are 10 requirements set forth in BCZR,

§4F-104.A:

1. The land on which a solar facility is proposed may not be encumbered by an agricultural preservation easement, an environmental preservation easement, or a rural legacy easement.
2. The land on which a solar facility is proposed may not be located in a Baltimore County historic district or on a property that is listed on the Baltimore County Final Landmarks List.
3. The portion of land on which a solar facility is proposed may not be in a forest conservation easement, or be in a designated conservancy area in an RC 4 or RC 6 Zone.
4. Aboveground components of the solar facility, including solar collector panels, inverters, and similar equipment, must be set back a minimum of 50 feet from the tract boundary. This setback does not apply to the installation of the associated landscaping, security fencing, wiring, or power lines.
5. A structure may not exceed 20 feet in height.
6. A landscaping buffer shall be provided around the perimeter of any portion of a solar facility that is visible from an adjacent residentially used property or a public street. Screening of state and local scenic routes and scenic views is required in accordance with the Baltimore County Landscape Manual.
7. Security fencing shall be provided between the landscaping buffer and the solar facility.
8. A solar collector panel or combination of solar collector panels shall be designed and located in an arrangement that minimizes glare or reflection onto adjacent properties and adjacent roadways, and does not interfere with traffic or create a safety hazard.
9. A petitioner shall comply with the plan requirements of §33-3-108 of the County Code.
10. In granting a special exception, the Administrative Law Judge, or Board of Appeals on appeal, may impose conditions or restrictions on the solar facility use as necessary to protect the environment and scenic views, and to lessen the impact of the facility on the health, safety, and general welfare of surrounding residential properties and communities, taking into account such factors as the topography of adjacent land, the presence of natural forest buffers, and proximity of streams and wetlands.

There are also provisions regarding maintenance of the facilities:

§ 4F-106. - Maintenance.

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

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

C. Appropriate vegetation is permitted under and around the solar collector panels, and the tract may be used for accessory agricultural purposes, including grazing of livestock, apiculture, and similar uses.

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

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

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

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor

I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

In *Schultz v. Pritts*, 291 Md. 1, 22-23, 432 A.2d at 1331 (1981), the Court of Appeals held that “the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” The Court of Appeals in *People’s Counsel for Baltimore County v. Loyola College in Md.* 406 Md. 54, 106, 956 A.2d 166 (2008) upheld that longstanding *Shultz* analysis, explaining that a special exception use has “certain [inherent] adverse effects...[which] are likely to occur”. In its analysis, the *Loyola* Court observed that “[t]he special exception adds flexibility to a comprehensive legislative zoning scheme by serving as a ‘middle ground’ between permitted use and prohibited uses in a particular zone.” *Id.*, 406 Md. at 71, 956 A.2d at 176 (2008).

The *Schultz* and *Loyola* Courts, and more recently in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, 285 (2017) have expressly recognized that “[a] special exception is presumed to be in the interest of the general welfare, and therefore a special exception enjoys a presumption of validity.” (See also *Loyola*, 406 Md. at 84, 88; 105 *Schultz*, 291 Md. at 11). Based on this standard, once an applicant puts on its *prima facie* evidence in support of a special exception, the opponents must then “set forth sufficient evidence to indicate that the proposed [use] would have any adverse effects above and beyond those inherently associated with such use under the *Schultz* standard.” *Attar*, 451 Md. at 287. (See *Montgomery County v. Butler*, 417 Md.271, 276-77 (2010) (opponent must show “non-inherent adverse effects” to “undercut the presumption of compatibility enjoyed

by a proposed special exception use”). (See also, *Clarksville Residents Against Mortuary Defense Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 543 (2017) (“there is a presumption that the [special exception] use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects”).

First, I find that the proposed solar facility Special Exception Area to be located on 13 acres of the total 32-acre Property is an accessory use to agricultural use and therefore is exempt from meeting the requirements in BCZR, Article 4F. Based on Mr. Sharon’s uncontroverted calculation, the Special Exception Area will be 40% of the overall Property acreage. This calculation meets the definition for accessory use in BCZR, §101.1 as one which is subordinate in area, extent and purpose to the principal agricultural use:

ACCESSORY USE OR STRUCTURE — A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use.

Accordingly, it is not necessary to analyze the Article 4F requirements.

To the extent that a reviewing Court would find that the proposed solar facility is not exempt from BCZR Article 4F, as set forth above in BCZR, §4F-102.A, solar facilities are only permitted by special exception under the factors set forth in BCZR §502.1. The testimony of Mr. Sharon supports the Petitioners’ position that the proposed solar facility would not be detrimental

to the health, safety or general welfare of the locality involved. As described in detail above, Mr. Sharon testified that the solar facility would not create congestion in the roads as it is not a use that generates traffic into or out of the Property. BCZR, §502.1.B. Further, Mr. Sharon confirmed that there is fire station adjacent to the Property on the corner of York Rd. and Freeland Rd. BCZR, §502.1.C. As with the lack of traffic, Mr. Sharon repeated that this use does not generate people and therefore it would not tend to overcrowd the land or cause an undue concentration of population. BCZR, §502.1.D. Additionally, Mr. Sharon confirmed that this use does not interfere with, or have any impact on, schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. BCZR, §502.1.E. To the contrary, I find it produces electricity which benefits the surrounding community and agrivoltaics provides the simultaneous use of both solar and farming.

Ms. Stephens confirmed that the height of the facility will be 9 ft. at full tilt and would therefore not interfere with adequate light or air. BCZR, §502.1.F. The evidence revealed that the Special Exception Area is already cleared of vegetation. Accordingly, I find that shadowing and air circulation are not areas of concern.

As to the consistency of this use with the purposes of the RC2 zone and with the spirit and intent of the BCZR, §4F-102 makes clear that solar facilities are consistent uses because they are temporary and are removed at the end of a lease term. The evidence showed that the soil type remains the same before, during, and after removal. The argument that prime and productive soil should not be used for solar facilities was considered and addressed by the County Council when the Council enacted Bill 37-17 in 2017. The County Council elected not to include such a provision in the law. The County Council deemed solar facilities are uses consistent with the RC2 zone, provided they meet the Special Exception standards, as explained in *Shultz, Loyola and Attar*.

Mr. Sharon explained that this use is consistent with impermeable surface and vegetative retention provisions of the BCZR. I find the design of the solar array panels here will direct rain to propel off the panels and soak into the crops underneath the panels. The design here shows that there will be separation between the rows of panels in order that farming equipment can access the crops. Finally, Mr. Sharon testified that this use, at this location, would not be detrimental to the environmental or natural resources as the existing forested area on the Largest Parcel will remain preserved in a recorded easement(s).

Having analyzed the Special Exception factors, I also find that the requirements of BCZR, §4F-102.B.1 and BCZR, §4F-104.A. 1-9, have been satisfied by the Petitioners. Mr. Sharon testified that the 13-acre Special Exception area is the minimum acreage needed to produce 1.1 megawatts AC of electricity. BCZR, §4F-102.B.1. Mr. Sharon testified that the Property is not encumbered by an agricultural preservation easement, an environmental preservation easement or rural legacy easement, nor is it in a Baltimore County historic district or on the Baltimore County Final Landmarks list. BCZR, §4F-104.A.1 and §4F-104.A.1 2. In addition, as with the Special Exception factors, Mr. Sharon testified that the Solar Facility will not be located in the environmental areas or in designated conservancy areas. BCZR, §§4F-104.A.3. There was no evidence which contradicted either of these requirements.

As to the setback and height requirements, Mr. Sharon made clear that the panels at full-tilt will not exceed 9 ft., and will not be located within 50 ft. from the tract boundary. BCZR, §§4F-104.A.4 and 5. Accordingly, both the height and setback requirements have been met. There was no evidence which contradicted either of these requirements.

With regard to the requirement for a landscaped buffer on the perimeter, Schematic and Final Landscape Plans are required to be filed with the Baltimore County Landscape Architect.

Moreover, the proposed 8 ft. agricultural security fence between the landscaped buffer and the Solar Facility is consistent with the agricultural area. (BCZR, §4F-104.7). I find that these requirements have been satisfied.

Additionally, there is a requirement that the solar panels minimize glare in order to prevent vehicle collisions and safety hazards as well as to minimize glare and reflection onto adjacent residences here. (BCZR, §4F-104.8). The Glare Analysis Report indicated that there would be no glare produced by the solar panels from the 27 receptor areas surrounding the Property. (Pet. Ex. 14). Thus, I find that requirement is satisfied.

Finally, the Site Plan must comply with BCC, §33-3-108. (BCZR, §4F-104.A.9). Subsection (c) requires the DEPS (as defined in §33-3-101(f)), to approve the Site Plan. Further, Subsection (b) directs that the Site Plan shall generally include such information (graphs, charts, etc.) to enable DEPS to “make a reasonably informed decision regarding the proposed activity.” Additionally, a Site Plan submitted to DEPS for approval must also contain the information listed in Subsection (c). Given the express wording of BCC, §33-3-108 that DEPS shall approve the Site Plan, and that DEPS is responsible for ensuring that the Site Plan comply with both the general and specific requirements of Subsections (b) and (c), I find it appropriate to place a condition in the Order reiterating the words of BCZR, §4F-104.A.9, that the Petitioner shall comply with BCC, §33-3-108.

Based on the exhibits and testimony detailed above, I find that the Special Exception relief should be granted. Specifically, I find that the proposed Solar Facility meets BCZR, §502.1, §4F-102 *et seq.* and §4F-104 *et seq.*

THEREFORE, IT IS ORDERED this 16th day of **December, 2024** by this Administrative Law Judge, that the Petition for Special Exception from the BCZR, §4F-102.A to permit a solar facility be, and it is hereby **GRANTED**; and

IT IS FURTHER ORDERED that, pursuant to BCZR, §502.3, the Special Exception is valid for a period of five (5) years from the date of this Order.

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 its 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. The Site Plan (Pet. Ex. 1) shall be incorporated into and made a part of this Opinion and Order.
3. To the extent that an area outside of the Special Exception area as shown on the Site Plan, and approved herein, shall be expanded in the future, Petitioners and all subsequent legal owners and/or Petitioners must file for the appropriate zoning relief in order that a zoning hearing will be held.
4. Petitioners shall install an 8 ft. agricultural style fence with a locked gate around the perimeter of the solar facility in lieu of the recommended black vinyl coated, chain-link fence. Attached to the entrance gate of the fence, in a conspicuous place, shall be a sign with the current contact information (name, address, telephone number, website and email address) of the owner and the operator of the solar facility. The sign shall be updated as is necessary to provide current information until the solar facility is decommissioned.
5. There shall be no lighting installed for the solar facility at the Property. Consequently, DPR shall determine whether or not a Lighting Plan is still needed to be filed.
6. There shall be no signage at the solar facility.
7. Petitioners must comply with the DOP ZAC comment, a copy of which are attached hereto and made a part hereof.
8. Petitioners must comply with the DEPS ZAC comment, a copy of which are attached hereto and made a part hereof.

9. Petitioners must comply with the DPR/DPWT ZAC comment, a copy of which are attached hereto and made a part hereof, *except for* the black vinyl chain link fence which will not be installed but will be substituted with the agricultural style fence indicated above.

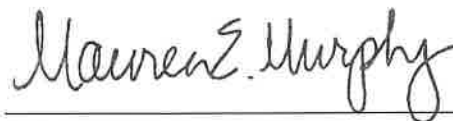
10. Petitioners shall submit for approval to Baltimore County Landscape Architect, a Landscape Plan for the Property demonstrating appropriate screening and vegetation is provided along adjacent public streets, as well as from the adjacent residentially used properties as required by BCZR, §4F-104.A.6. The Landscape Plan shall include an agreement that the owner/operator of the solar facility shall be required to maintain and/or replace as necessary all trees, shrubs and/or vegetation planted within the Landscape Buffer as shown on and as required by the Final Landscape Plan.

11. Prior to the issuance of a building permit, Petitioners must satisfy the environmental regulations set forth in BCC, §33-3-108 pertaining to the protection of water quality, streams, wetlands and floodplains and obtain approval of the Site Plan from DEPS as required by BCC, §33-3-108, as required by BCZR, §4F-104.A.9.

12. Any and all requirements for security bonds or equivalent financial security shall be determined by the County Administrative Officer as set forth in BCZR, §4F-105.A.

Any appeal of this decision must be made within thirty (30) days of the date of this

Order.

A handwritten signature in cursive script, reading "Maureen E. Murphy". The signature is written in dark ink and is positioned above a horizontal line.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dln

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/30/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0223

INFORMATION:

Property Address: 21710 York Road
Petitioner: Rebecca J. Phillips
Zoning: RC-2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for the following:

Special Exception:

- i. To permit a solar facility pursuant to BCZR § 4F-102 (A)
- ii. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

The subject property is located along York Road, covering 32.23 acres in the Freeland area of Baltimore County. Positioned near the Pennsylvania-Maryland border, it lies between Freeland and York, close to Interstate 83. Zoned RC-2, the property is designated primarily for agricultural use and remains unimproved agricultural land. It is surrounded by other farms, forest conservation areas, and residential dwellings.

The RC-2 zone is a zoning district established to preserve the rural character of the area and promote low-density residential development. This district is intended to maintain the natural beauty and peacefulness of the surrounding countryside, while providing for compatible land uses and development patterns.

The proposed relief request is by Applicant MD Solar 6000, LLC, a subsidiary of Lightstar Renewables, LLC, operating under Subscriber Organization certification number 22A242113000564, that is proposing to develop a 3MW-AC Agrivoltaic Community Solar Energy Generation System (CSEG) in Baltimore County's councilman district 3.

In a letter from the applicant to the Director of Permits, Approval and Inspections, Pete Gutwald dated August 9th 2023, the proposed development is categorized as an "Agrivoltaics" project, which combines solar energy generation with agricultural activities, including farming or livestock, on the same plot of land. This integrated approach will employ existing agricultural machinery and the current soybean crop to ensure both continue to flourish.

According to the letter, the concept of Agrivoltaics was formally defined in Maryland through the enactment of House Bill 908 in May of 2023, which revised Article – Public Utilities, Section 7–306.2.

This definition aligns with the approved agricultural activities listed under Sec. 18.02.03.03 of COMAR. Agrivoltaics is described as the concurrent utilization of land for solar power production and agricultural purposes. This model of solar development not only allows for simultaneous generation of solar energy and agricultural production but also sustains the productive use of farmland, thereby offering an additional income source for landowners.

Drawing on guidelines from the American Farmland Trust and the National Renewable Energy Laboratory (NREL), the applicant is confident that, through effective vegetation management, solar farms can successfully integrate with agricultural practices. This approach not only yields clean energy but also bolsters the local economy and conserves the land for the benefit of future generations.

In response to Applicant MD Solar 6000, LLC's letter dated August 9th 2024, Pete Gutwald, the Director of Permits, Approval, and Inspection, clarified in his letter that the type of solar facility proposed by the applicant is governed by the Maryland Public Service Commission, which preempts local zoning authority. Consequently, this facility is exempt from Baltimore County Zoning Regulations. Additionally, he noted that Baltimore County is adopting a new 2030 Master Plan. This forthcoming plan highlights the County's dedication to developing sustainable and cleaner energy systems, and the proposed solar project is expected to make a substantial contribution to these initiatives. At this point, the county advises strongly that the community be kept well-informed and engaged at every project milestone. Furthermore, the county will withhold its comments until the application proceeds through the County's Development Review process, at which time it will address any arising concerns or comments in detail.

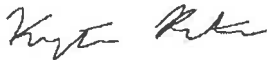
The Department of Planning defers all decision makings to the Administrative Law Judge however, it must be known that the MD Route 45 (York Road) is a scenic route. The Baltimore County Master Plan 2030 recognizes scenic routes as important visual amenities worthy of preservation. Designating scenic protection along the Route 45 preserves the aesthetic qualities and character that makes Baltimore County distinctive. The Department of Planning believes the proposed development must include the Scenic Route Development Guidelines as presented in the Baltimore County's Comprehensive Manual of Development Policies (CMDP Division IV. Special Areas and Procedures A. Scenic View Page 5 Development Guidelines). Specifically, the applicant must consider the following:

- i. Strategically design and position utilities, drainage systems, bridges, lighting, signage, fences, walls, and other street furnishings to blend seamlessly with the natural surroundings, ensuring minimal visual disruption along scenic routes.
- ii. Develop and submit a comprehensive landscape plan to the Department of Planning that enhances the aesthetic and ecological value of Route 45 along the proposed development. Utilize native species or those commonly found locally to strengthen the site's inherent character and ecological importance.
 - a. Provide a detailed landscape design on the site plan, showcasing a natural buffer to the east of the proposed site along Freeland Road. This buffer should mirror the wooded conservation area along Exit Ramp 37. It is crucial that the landscape design aligns with and complements the existing character of the neighborhood.
- iii. Enhance the existing vegetation by introducing native and low-maintenance flowering or evergreen trees and shrubs, along with pollinator-friendly plants and wildflowers, to sustain visual interest and biodiversity throughout the seasons.

- iv. Pursuant to BCZR §502.1. A, the petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent commercial properties, or public roads as a result of glare emanating from the facility.
- v. Submit a solar glare analysis and letter from an expert of the solar company confirming the finding of said analysis and that glare will not impact the surrounding properties and the public roads.
- vi. Provide a photometric lighting plan for review. 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, especially along Freeland Road.
- vii. Signage shall be limited to that which is necessary for safety and security purposes. Ensure signage along MD 45 and Freeland Road are consistent with the character of the neighborhood.
- viii. 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.
- ix. 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.
- x. Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in this case. 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.

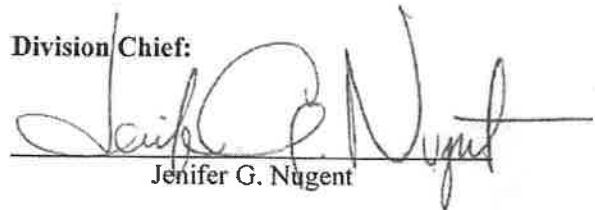
For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Lawrence E. Schmidt, Esq.
Megan Benjamin and Joseph Wiley, Community Planners
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 7, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0223-X
Address: 21710 YORK ROAD
Legal Owner: MD Solar 6000, LLC

Zoning Advisory Committee Meeting of October 28, 2024.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Jannifer D. Anderson

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0223-X

DATE: October 31, 2024

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: No comment.

DPW-T: No Exception taken.

Landscaping: If Special Exception is approved a Landscape Plan is required per the Baltimore County Landscape Manual and a Lighting Plan is also required if lighting is proposed.

Specific landscape comments:

1. Freeland Road, I-83 and MD Route 45 - York Road are Baltimore County Scenic Routes,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. The planting needs to be set back from the existing overhead power lines to allow the diversity of screen plant materials to mature and not be affected by standard vegetation maintenance typically associated with existing overhead power line. This planting should also be located and follow higher contours to capitalize and maximize screening potential.
5. Perimeter landscape buffers need to be designed to include a diversity of plant materials.
6. 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 # 8 below),
7. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
8. Perimeter landscape buffers should address adjacent property views to provide maximum screening potential when it relates to the proposed solar facility. Including but not limited to 323, 333, 405 & 500 Freeland Road.
9. Proposed access road(s) may need to have a chicane or bends to assure screening of the solar array field from Adjacent Road(s) views, if landscape screening does not,
10. 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,

Recreations & Parks: No comment LOS & No Greenways affected.

24-0948 JK



PETITION FOR PUBLIC HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 21710 York Road Currently Zoned RC 2
Deed Reference 36162 / 00138 10 Digit Tax Account # 0713006825
Owner(s) Printed Name(s) Rebecca J. Phillips

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

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

SEE ATTACHED

3. ☐ a **Variance** from the Zoning Regulations of Baltimore County Section(s)
4. ☐ a **Floodplain Management Variance** from Baltimore County Code Section(s)

for the following reasons: (For Variance items 3 or 4 above, indicate below what is unique about your property resulting in 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 and indicate "SEE ATTACHED" below)

Property is to be posted and advertised as prescribed by the Zoning Regulations or County Code.
I/we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the Zoning Regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County or bound by the Floodplain Management laws of the Baltimore County Code.
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:

MD Solar 6000 LLC
Name - Type or Print
Signature AARON MACQUEEN
501 Boylston St, Floor 10 Boston MA
Mailing Address City State
02116 / 617-610-7042 / cecelia.stephens@lightstar.com
Zip Code Telephone # Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Esq.
Name - Type or Print
Signature
600 Washington Ave, Ste. 200 Towson MD
Mailing Address City State
21204 / 410-821-0070 / lschmidt@sgs-law.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Rebecca J. Phillips /
Name #1 - Type or Print Name #2 - Type or Print
Signature #1 Rebecca J. Phillips Signature #2
107 Weatherby Lane Glassboro NJ
Mailing Address City State
08028 / 410-821-0070 / lschmidt@sgs-law.com
Zip Code Telephone #'s (Cell and Home) Email Address

Representative to be contacted:

Lawrence E. Schmidt, Esq.
Name - Type or Print
Signature
600 Washington Ave, Ste. 200 Towson MD
Mailing Address City State
21204 / 410-821-0070 / lschmidt@sgs-law.com
Zip Code Telephone # Email Address

Case Number 2024-0223-X Filing Date 10/11/2024 Do Not Schedule Dates Reviewer

ATTACHMENT TO PETITION FOR PUBLIC HEARING(S)

21710 York Road
3rd Councilmanic District
1st Election District

Special Exception Relief:

1. To permit a solar facility pursuant to BCZR § 4F-102 (A)
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.



February 27, 2023

Description of the lands of Rebecca J. Phillips situated North of Freeland Road and Harris Mill Road and along both sides of Maryland Route 45 (York Road) and Interstate Route 83 near Freeland, Election District No. 7, Baltimore County, Maryland and being more particularly described as follows:

Tract No. 1 – Part 1

Beginning at a stone found at the end of the sixth (6th) or S 60° W 80.8 perch line of Tract No. 1 as described in a conveyance from Laura C. Grove unto C. K. McDonald and Mary C. McDonald by deed dated March 22, 1921 and recorded among the land records of Baltimore County, Maryland in Liber 587, at Folio 265. Thence running reversely with the outline of said deed the following three (3) courses and distances

- 1) N 56° 45' 52" E 1346.20 feet to a 5/8" rebar and surveyor's cap set. Thence
- 2) N 43° 14' 08" W 34.99 feet to a 5/8" rebar and surveyor's cap set. Thence
- 3) N 49° 15' 52" E 162.91 feet to a 5/8" rebar and surveyor's cap set along the Westerly right of way line of Maryland Route 45 (York Road). Thence running with said right of way the following three (3) courses and distances
- 4) S 40° 31' 00" E 51.97 feet to a point. Thence by a tangent curve to the right having a radius of 1227.00 feet, an arc length of 348.18 feet and subtended by a chord bearing and distance of
- 5) S 32° 23' 14" E 347.01 feet to a point. Thence
- 6) S 24° 15' 29" E 374.93 feet to a point along the Northerly right of way line of Freeland Road as shown on State Roads Commission of Maryland Plat No. 18204. Thence running with said right of way
- 7) S 22° 05' 35" W 10.65 feet to a point along the eight (8th) or N 65 3/4° E 90 perch line of aforesaid Tract No. 1 recorded in Liber 587, at Folio 265. Said point also being along the third (3rd) or S 65° W 89.6 perch line as described in a conveyance from William Heaton and Elizabeth Heaton unto Ephraim Bell by deed dated September 7, 1844 and recorded among the aforesaid land records in Liber T.K.345, at Folio 149. Thence running with the remaining portion of said lines

Triad Project Number: 03-22-0564

- 1) N 62° 27' 53" E 1480.14 feet to a point along the Northerly right of way line of Freeland Road as shown on State Roads Commission of Maryland Plat No. 18204. Thence running with said right of way.
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- 6) N 29° 48' 35" W 245.59 feet to the point of beginning;

Containing 2.671 acres of land more or less.

The tracts or parcels of land described herein being part of the first parcel as described in a conveyance from Rebecca J. Phillips and Gregory A. Diehl unto Rebecca J. Phillips by deed dated July 2, 2014 and recorded among the land records of Baltimore County, Maryland in Liber 36162, at Folio 138.

The tracts or parcels of land described herein being recently surveyed, this description was prepared by Triad Engineering, Inc. of Hagerstown, Maryland and is recorded among Triad's files as Job No. 03-22-0564. The bearing system is based on NAD83 Maryland State Plane Coordinate System.

The undersigned being a licensed surveyor, personally prepared or was in responsible charge of the preparation and the survey work reflected in this metes and bounds description, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation .12.

Prepared by: Ronald D. Bidle, Jr., PLS
Maryland Registration Number 21517
Expires: 07/13/2025



Ronald D. Bidle

24-0948 JK



PETITION FOR PUBLIC HEARING(S)

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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:

MD Solar 6000 LLC

Name - Type or Print

Signature

AARON MACQUEEN

501 Boylston St, Floor 10 Boston MA

Mailing Address City State

02116 / 617-610-7042 / cecelia.stephens@lightstar.com

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

Rebecca J. Phillips

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

107 Weatherby Lane

Glassboro NJ

Mailing Address

City State

08028 / 410-821-0070

/ lschmidt@sgs-law.com

Zip Code Telephone #'s (Cell and Home) Email Address

Attorney for Petitioner:

Lawrence E. Schmidt, Esq.

Name - Type or Print

Signature

600 Washington Ave, Ste. 200 Towson MD

Mailing Address City State

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

Zip Code Telephone # Email Address

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Name - Type or Print

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600 Washington Ave, Ste. 200

Towson MD

Mailing Address

City State

21204 / 410-821-0070

/ lschmidt@sgs-law.com

Zip Code Telephone # Email Address

Case Number 2024-0223-X Filing Date 10/11/2024 Do Not Schedule Dates

Reviewer [Signature]

ATTACHMENT TO PETITION FOR PUBLIC HEARING(S)

21710 York Road
3rd Councilmanic District
1st Election District

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Prepared by: Ronald D. Bidle, Jr., PLS
Maryland Registration Number 21517
Expires: 07/13/2025



Ronald D. Bidle

**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: 2024-0223-X
Property Address: 21710 York Road
Legal Owners (Petitioners): Rebecca J. Phillips
Contract Purchaser/Lessee: MD Solar 6000 LLC

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): MDSolar 6000 LLC
Address: WeWork - 10th Floor, 501 Boylston Street
Boston, MA 02116

Telephone Number: (617) 610-7042

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Revised 3/2022

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 11/11/2024

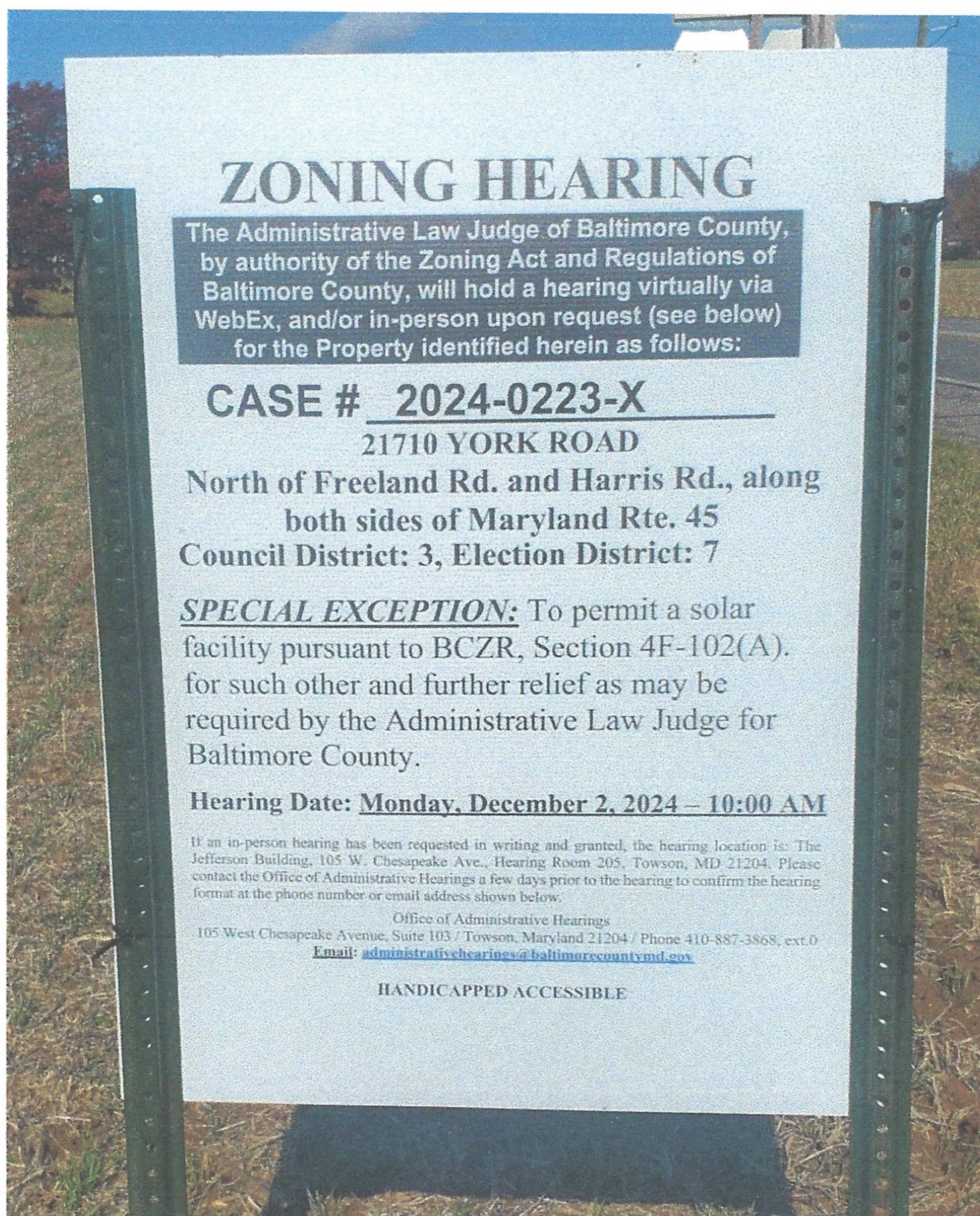
Case Number: 2024-0223-X

Petitioner / Developer: SMITH, GILDEA & SCHMIDT, LLC ~
REBECCA PHILIPS

Date of Hearing: DECEMBER 2, 2024

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:
21710 YORK ROAD

The sign(s) were posted on: NOVEMBER 11, 2024



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, MD 21030
(City, State, Zip of Sign Poster)

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 7, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0223-X
Address: 21710 YORK ROAD
Legal Owner: MD Solar 6000, LLC

Zoning Advisory Committee Meeting of October 28, 2024.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Additional Comments:

Reviewer: Jannifer D. Anderson

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 10/30/2024

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2024-0223

INFORMATION:

Property Address: 21710 York Road
Petitioner: Rebecca J. Phillips
Zoning: RC-2
Requested Action: Special Exception

The Department of Planning has reviewed the petition for the following:

Special Exception:

- i. To permit a solar facility pursuant to BCZR § 4F-102 (A)
- ii. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

The subject property is located along York Road, covering 32.23 acres in the Freeland area of Baltimore County. Positioned near the Pennsylvania-Maryland border, it lies between Freeland and York, close to Interstate 83. Zoned RC-2, the property is designated primarily for agricultural use and remains unimproved agricultural land. It is surrounded by other farms, forest conservation areas, and residential dwellings.

The RC-2 zone is a zoning district established to preserve the rural character of the area and promote low-density residential development. This district is intended to maintain the natural beauty and peacefulness of the surrounding countryside, while providing for compatible land uses and development patterns.

The proposed relief request is by Applicant MD Solar 6000, LLC, a subsidiary of Lightstar Renewables, LLC, operating under Subscriber Organization certification number 22A242113000564, that is proposing to develop a 3MW-AC Agrivoltaic Community Solar Energy Generation System (CSEG) in Baltimore County's councilman district 3.

In a letter from the applicant to the Director of Permits, Approval and Inspections, Pete Gutwald dated August 9th 2023, the proposed development is categorized as an "Agrivoltaics" project, which combines solar energy generation with agricultural activities, including farming or livestock, on the same plot of land. This integrated approach will employ existing agricultural machinery and the current soybean crop to ensure both continue to flourish.

According to the letter, the concept of Agrivoltaics was formally defined in Maryland through the enactment of House Bill 908 in May of 2023, which revised Article – Public Utilities, Section 7–306.2.

This definition aligns with the approved agricultural activities listed under Sec. 18.02.03.03 of COMAR. Agrivoltaics is described as the concurrent utilization of land for solar power production and agricultural purposes. This model of solar development not only allows for simultaneous generation of solar energy and agricultural production but also sustains the productive use of farmland, thereby offering an additional income source for landowners.

Drawing on guidelines from the American Farmland Trust and the National Renewable Energy Laboratory (NREL), the applicant is confident that, through effective vegetation management, solar farms can successfully integrate with agricultural practices. This approach not only yields clean energy but also bolsters the local economy and conserves the land for the benefit of future generations.

In response to Applicant MD Solar 6000, LLC's letter dated August 9th 2024, Pete Gutwald, the Director of Permits, Approval, and Inspection, clarified in his letter that the type of solar facility proposed by the applicant is governed by the Maryland Public Service Commission, which preempts local zoning authority. Consequently, this facility is exempt from Baltimore County Zoning Regulations. Additionally, he noted that Baltimore County is adopting a new 2030 Master Plan. This forthcoming plan highlights the County's dedication to developing sustainable and cleaner energy systems, and the proposed solar project is expected to make a substantial contribution to these initiatives. At this point, the county advises strongly that the community be kept well-informed and engaged at every project milestone. Furthermore, the county will withhold its comments until the application proceeds through the County's Development Review process, at which time it will address any arising concerns or comments in detail.

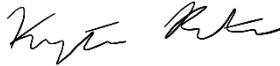
The Department of Planning defers all decision makings to the Administrative Law Judge however, it must be known that the MD Route 45 (York Road) is a scenic route. The Baltimore County Master Plan 2030 recognizes scenic routes as important visual amenities worthy of preservation. Designating scenic protection along the Route 45 preserves the aesthetic qualities and character that makes Baltimore County distinctive. The Department of Planning believes the proposed development must include the Scenic Route Development Guidelines as presented in the Baltimore County's Comprehensive Manual of Development Policies (CMDP Division IV. Special Areas and Procedures A. Scenic View Page 5 Development Guidelines). Specifically, the applicant must consider the following:

- i. Strategically design and position utilities, drainage systems, bridges, lighting, signage, fences, walls, and other street furnishings to blend seamlessly with the natural surroundings, ensuring minimal visual disruption along scenic routes.
- ii. Develop and submit a comprehensive landscape plan to the Department of Planning that enhances the aesthetic and ecological value of Route 45 along the proposed development. Utilize native species or those commonly found locally to strengthen the site's inherent character and ecological importance.
 - a. Provide a detailed landscape design on the site plan, showcasing a natural buffer to the east of the proposed site along Freeland Road. This buffer should mirror the wooded conservation area along Exit Ramp 37. It is crucial that the landscape design aligns with and complements the existing character of the neighborhood.
- iii. Enhance the existing vegetation by introducing native and low-maintenance flowering or evergreen trees and shrubs, along with pollinator-friendly plants and wildflowers, to sustain visual interest and biodiversity throughout the seasons.

- iv. Pursuant to BCZR §502.1. A, the petitioners shall demonstrate to the satisfaction of the Administrative Law Judge that the facility will not be detrimental to the adjacent commercial properties, or public roads as a result of glare emanating from the facility.
- v. Submit a solar glare analysis and letter from an expert of the solar company confirming the finding of said analysis and that glare will not impact the surrounding properties and the public roads.
- vi. Provide a photometric lighting plan for review. 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, especially along Freeland Road.
- vii. Signage shall be limited to that which is necessary for safety and security purposes. Ensure signage along MD 45 and Freeland Road are consistent with the character of the neighborhood.
- viii. 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.
- ix. 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.
- x. Petitioners shall certify by note on the plan that the proposed solar facility will not exceed the maximum permitted number of facilities allowed in this case. 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.

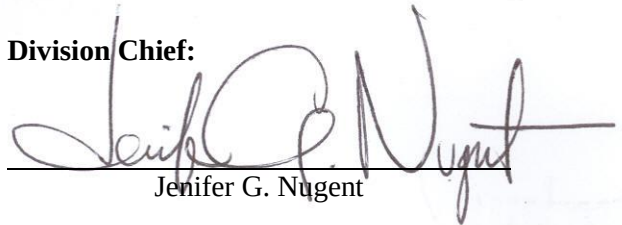
For further information concerning the matters stated herein, please contact Henry Ayakwah at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Lawrence E. Schmidt, Esq.
Megan Benjamin and Joseph Wiley, Community Planners
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: October 31, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0223-X

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR: No comment.

DPW-T: No Exception taken.

Landscaping: If Special Exception is approved a Landscape Plan is required per the Baltimore County Landscape Manual and a Lighting Plan is also required if lighting is proposed.

Specific landscape comments:

1. Freeland Road, I-83 and MD Route 45 - York Road are Baltimore County Scenic Routes,
2. Perimeter landscape buffers are required,
3. Must minimize tree and vegetation removal,
4. The planting needs to be set back from the existing overhead power lines to allow the diversity of screen plant materials to mature and not be affected by standard vegetation maintenance typically associated with existing overhead power line. This planting should also be located and follow higher contours to capitalize and maximize screening potential.
5. Perimeter landscape buffers need to be designed to include a diversity of plant materials.
6. 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 # 8 below),
7. Proposed perimeter fence shall be black vinyl-coated chain-link fence,
8. Perimeter landscape buffers should address adjacent property views to provide maximum screening potential when it relates to the proposed solar facility. Including but not limited to 323, 333, 405 & 500 Freeland Road.
9. Proposed access road(s) may need to have a chicane or bends to assure screening of the solar array field from Adjacent Road(s) views, if landscape screening does not,
10. 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,

Recreations & Parks: No comment LOS & No Greenways affected.

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Special Tax Recapture: AGRICULTURAL TRANSFER TAX

Account Identifier: District - 07 Account Number - 0713006825

Owner Information

Owner Name: PHILLIPS REBECCA J Use: AGRICULTURAL
Principal Residence:NO
Mailing Address: 107 WEATHERBY LN Deed Reference: /36162/ 00138
GLASSBORO NJ 08028-

Location & Structure Information

Premises Address: 21710 YORK RD Legal Description: 32.232 AC
0-0000 21710 YORK RD
350 FT NW FREELAND RD

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0003 0021 0030 7010001.04 0000 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
32.2300 AC 05

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements
/

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2023	07/01/2024	07/01/2025
Land:	89,500	107,500		
Improvements	0	0		
Total:	89,500	107,500	101,500	107,500
Preferential Land:	8,500	8,500		

Transfer Information

Seller: DIEHL HELEN	Date: 05/11/2015	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /36162/ 00138	Deed2:
Seller: DIEHL HELEN	Date: 04/04/2014	Price: \$65,000
Type: NON-ARMS LENGTH OTHER	Deed1: /34831/ 00449	Deed2:
Seller: DIEHL HELEN MCDONALD JAMES NORRIS	Date: 04/04/2014	Price: \$65,000
Type: NON-ARMS LENGTH OTHER	Deed1: /34831/ 00445	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2024	07/01/2025
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

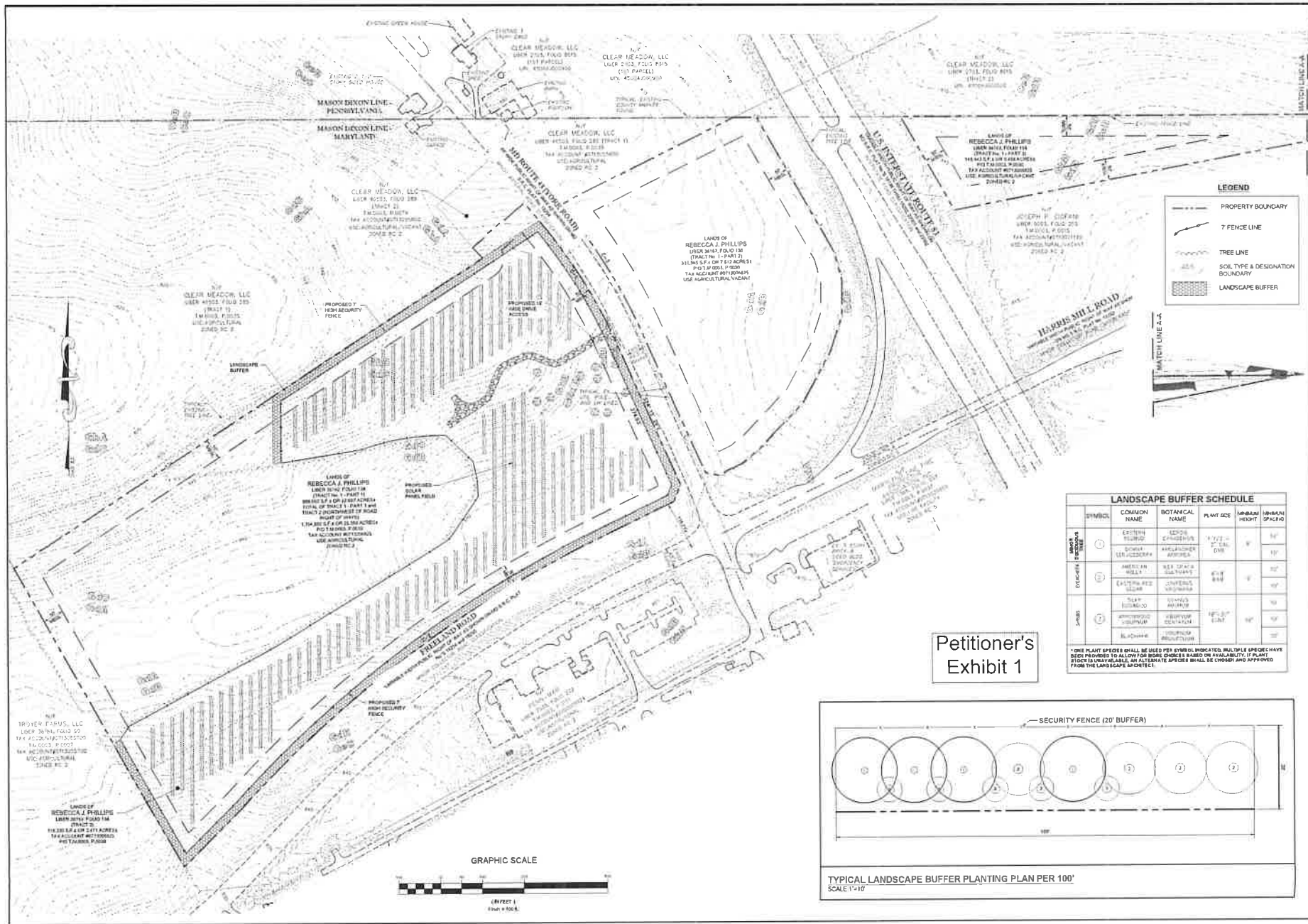
Special Tax Recapture: AGRICULTURAL TRANSFER TAX

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

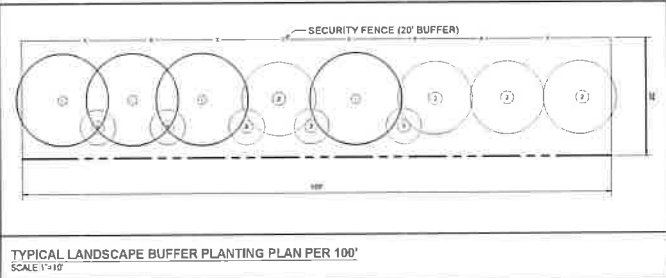
Homeowners' Tax Credit Application Status: No ApplicationDate:



Petitioner's
Exhibit 1

LANDSCAPE BUFFER SCHEDULE						
	SYMBOL	COMMON NAME	BOTANICAL NAME	PLANT AGE	HEIGHT	SPACING
OVERSEEN	1	EXTENSIVE PLUMB	LEONIS	1' TALL - 1" DIA.	8"	10'
	2	AMERICAN HOLLY	WAX	6' TALL - 6" DIA.	10'	10'
S-PLANT	3	EXTENSIVE RED	LEONIS	1' TALL - 1" DIA.	8"	10'
	4	AMERICAN HOLLY	WAX	6' TALL - 6" DIA.	10'	10'

* ONE PLANT SPECIES SHALL BE USED PER SYMBOL INDICATED. MULTIPLE SPECIES HAVE BEEN PROVIDED TO ALLOW FOR BORE CHOICES BASED ON AVAILABILITY. IF PLANT SPECIES IS UNAVAILABLE, AN ALTERNATE SPECIES SHALL BE CHOSEN AND APPROVED FROM THE LANDSCAPE CONTRACTOR.

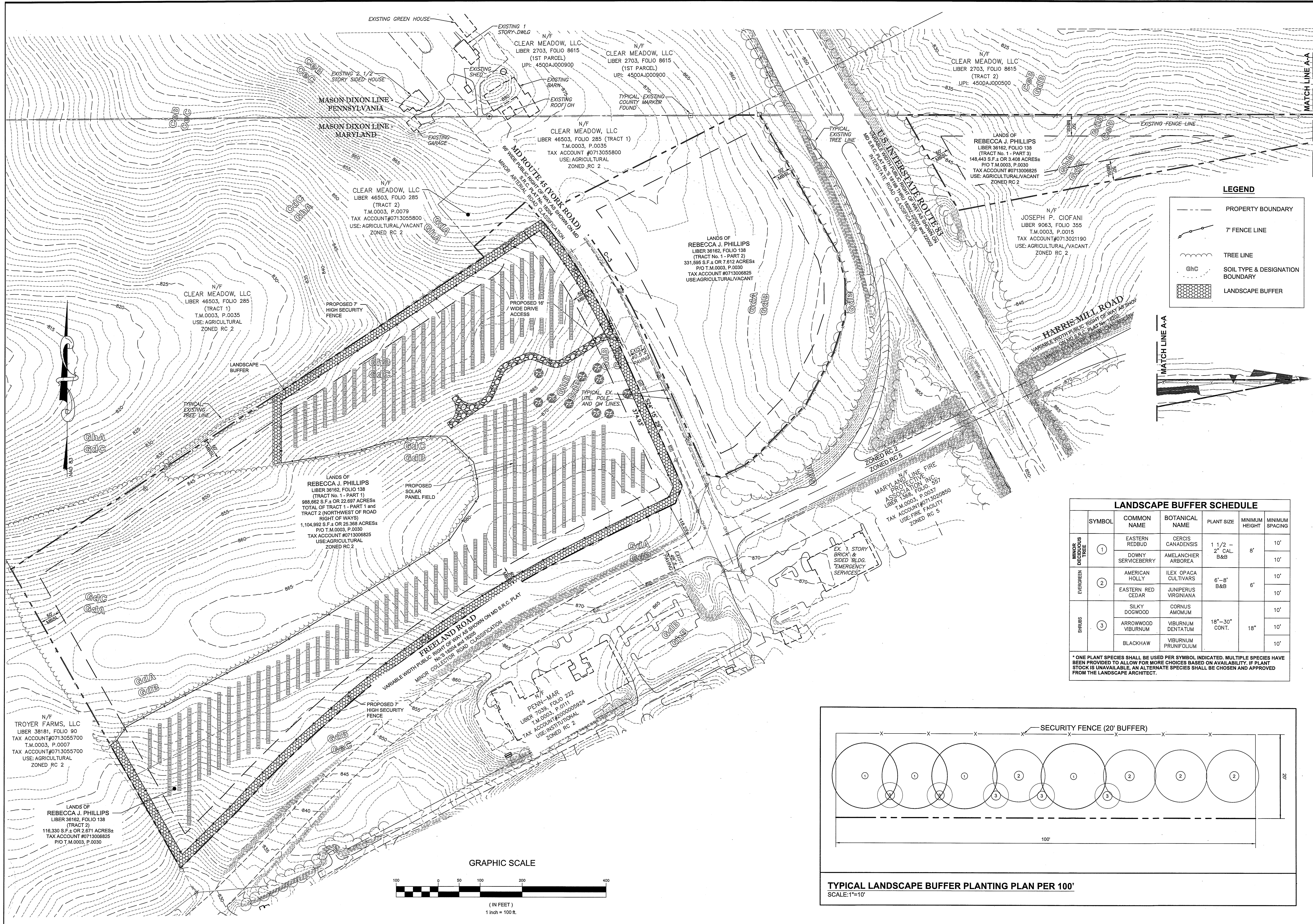


TRIAD ENGINEERING, INC.
1075-D SHERMAN AVENUE
ROCKERS TOWN, MD 21740
PH: 301.979.6063 FAX: 301.979.4241
PREFERRED: 301.979.6063

**PLAN TO ACCOMPANY
SPECIAL EXEMPTION ZONING HEARING FOR THE
REBECCA J. PHILLIPS PROPERTY**
2170 YORK ROAD, PRELIMINARY
BALTIMORE COUNTY, MD 21003
ELECTION DISTRICT 07, COUNTY COUNCIL DISTRICT 2, 201404 MAY 03/03 A 00103

TRIAD ENGINEERING, INC.
www.triadeng.com
SHEET NUMBER:
CSP-2.0
JOB NO.: 03-22-0564

CADD FILE: 03-22-0564-CSP-2.0.dwg
DRAWN BY: B. J.B.
STAFF: B. J.B.
DATE: 03-18-2003
SCALE: 1"=100'

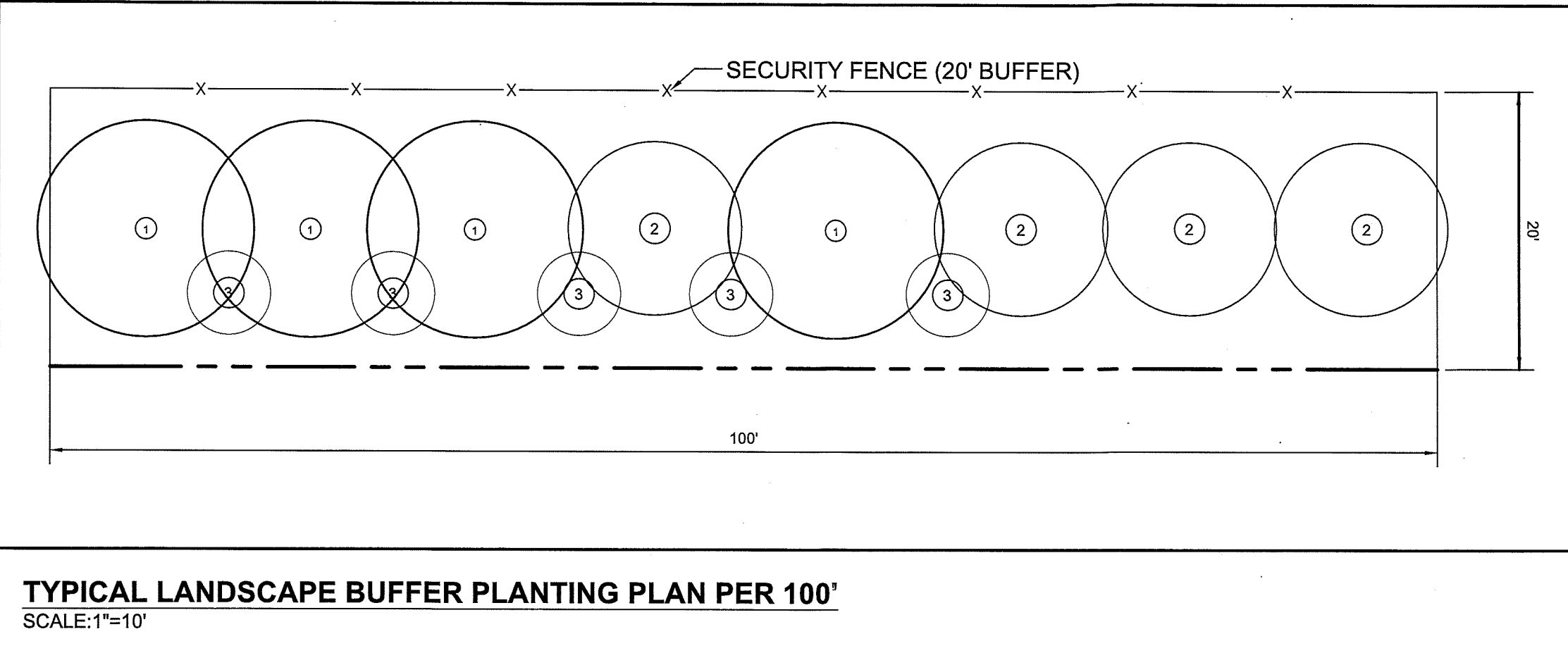


LEGEND

- PROPERTY BOUNDARY
- 7' FENCE LINE
- TREE LINE
- SOIL TYPE & DESIGNATION BOUNDARY
- LANDSCAPE BUFFER

LANDSCAPE BUFFER SCHEDULE						
	SYMBOL	COMMON NAME	BOTANICAL NAME	PLANT SIZE	MINIMUM HEIGHT	MINIMUM SPACING
MINOR DECIDUOUS TREE	①	EASTERN REDBUD	CERIS CANADENSIS	1 1/2 - 2" CAL. B&B	8'	10'
		DOWNY SERVICEBERRY	AMELANCHIER ARBOREA			10'
EVERGREEN	②	AMERICAN HOLLY	ILEX OPACA CULTIVARS	6"-8" B&B	6'	10'
		EASTERN RED CEDAR	JUNIPERUS VIRGINIANA			10'
SHRUBS	③	SILKY DOGWOOD	CORNUS AMOMUM			10'
		ARROWWOOD VIBURNUM	VIBURNUM DENTATUM	18"-30" CONT.	18"	10'
		BLACKHAW	VIBURNUM PRUNIFOLIUM			10'

* ONE PLANT SPECIES SHALL BE USED PER SYMBOL INDICATED. MULTIPLE SPECIES HAVE BEEN PROVIDED TO ALLOW FOR MORE CHOICES BASED ON AVAILABILITY. IF PLANT STOCK IS UNAVAILABLE, AN ALTERNATE SPECIES SHALL BE CHOSEN AND APPROVED FROM THE LANDSCAPE ARCHITECT.



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1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
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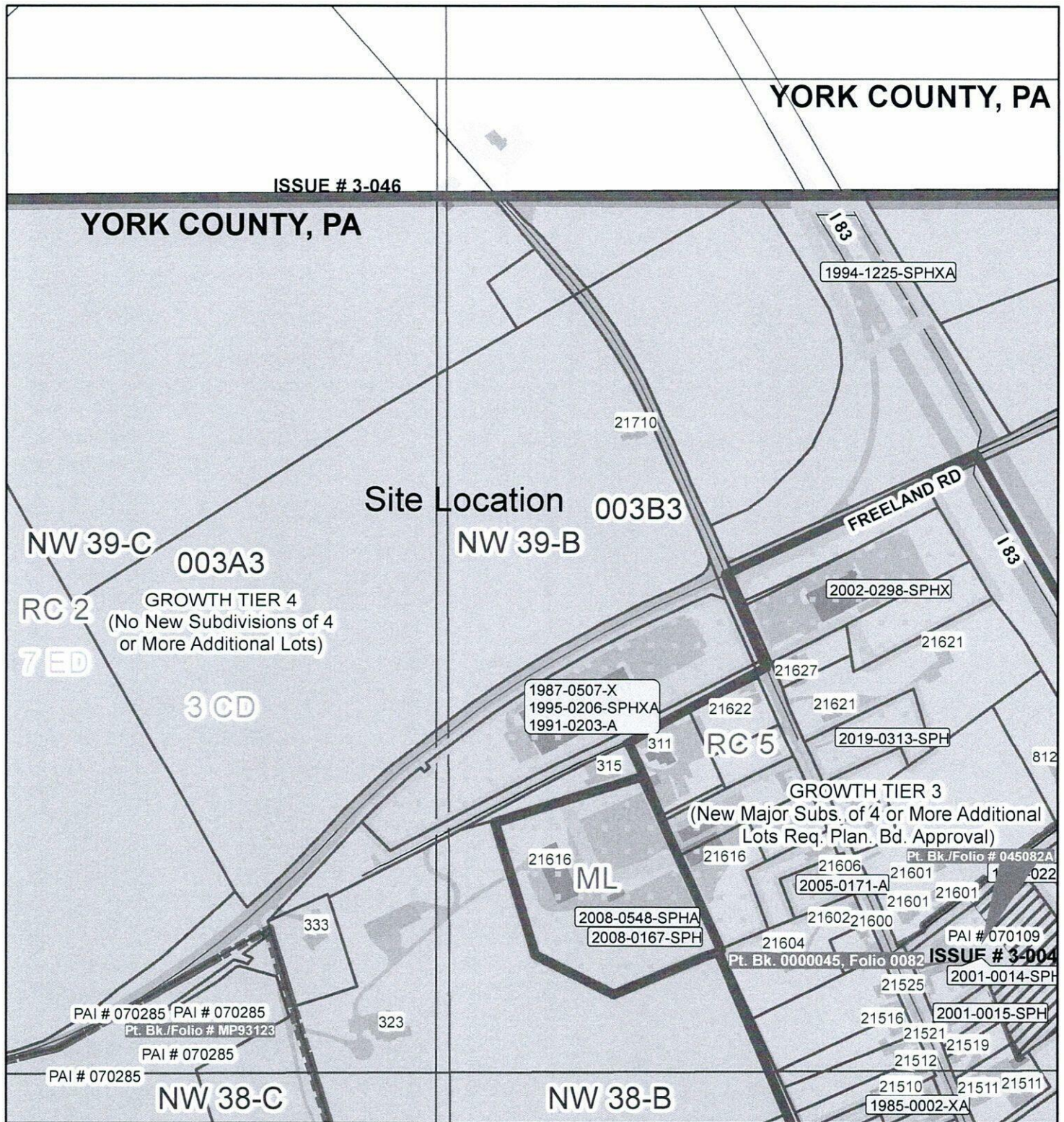
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CHECKED BY: B.J.S.
DATE: 09-18-2024
SCALE: 1" = 100'

STATE OF MARYLAND
REBECCA J. PHILLIPS
BALTIMORE COUNTY, MD. 21063
ELECTION DISTRICT: 07 COUNTY COUNCIL DISTRICT: 3 ZONING MAP 003A3 & 003B3

**PLAN TO ACCOMPANY
SPECIAL EXEMPTION ZONING HEARING FOR THE
REBECCA J. PHILLIPS PROPERTY**
21710 YORK ROAD, FREELAND
BALTIMORE COUNTY, MD. 21063

TRIAD
TRIAD ENGINEERING, INC.
www.triadeng.com
SHEET NUMBER:
CSP-2.0
JOB NO.: 03-22-0564

21710 York Rd



Publication Date: 10/10/2024

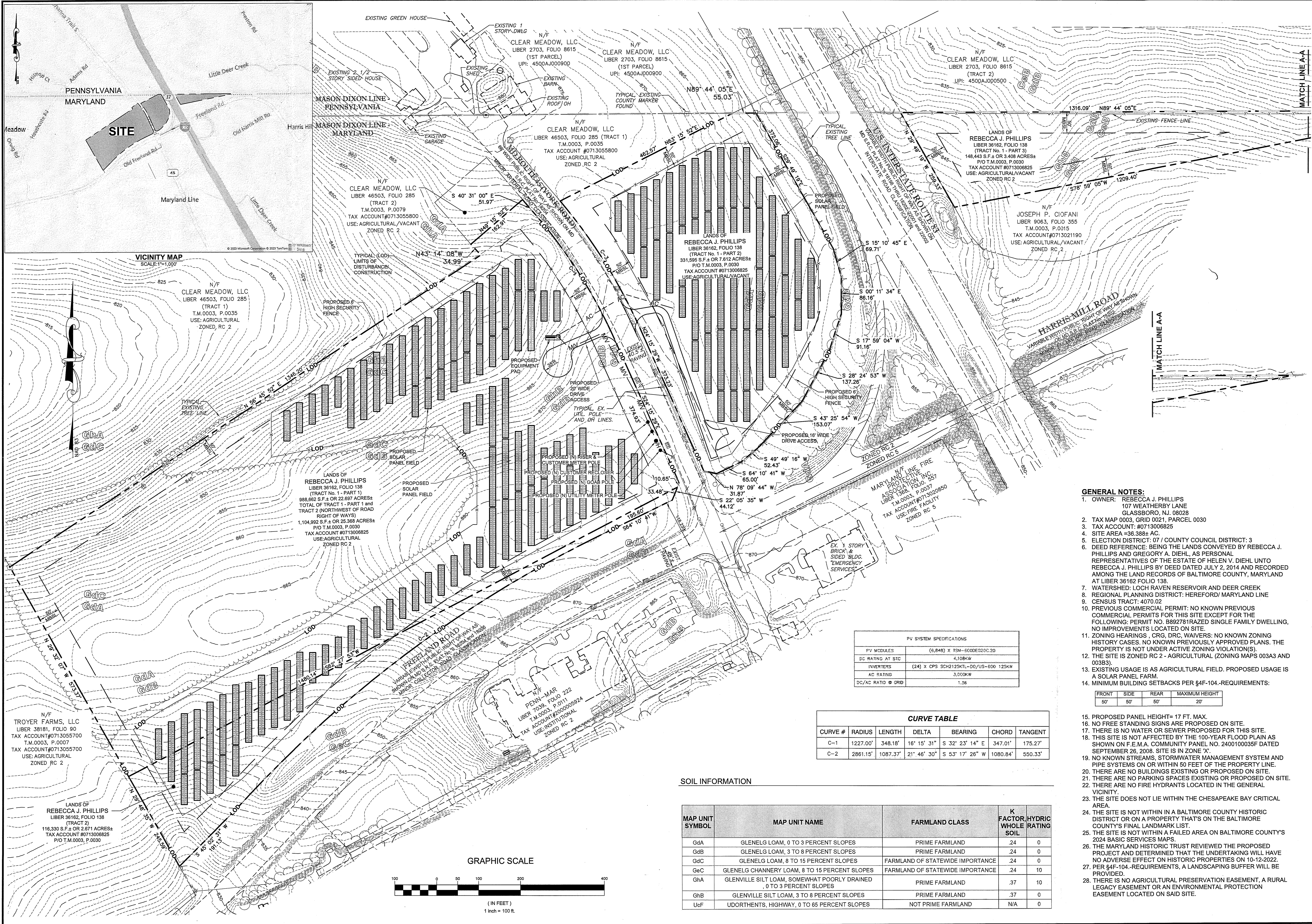


Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 100 200 400 600 800 Feet

1 inch = 363.604926 feet



TRIAD ENGINEERING, INC.
1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
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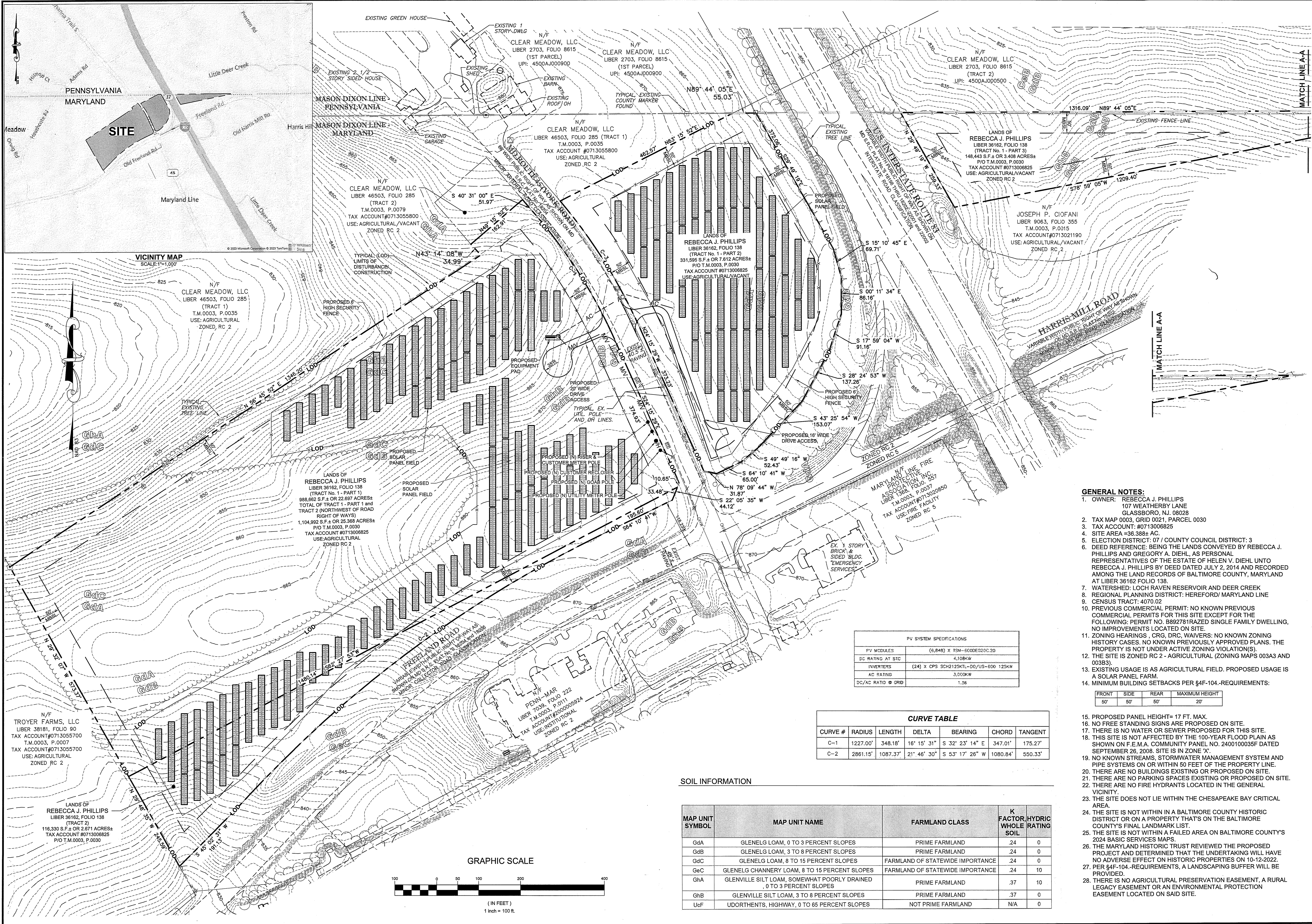
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CHECKED BY: B.J.S.
DATE: 03-23-2023
SCALE: 1"= 100'

STATE OF MARYLAND
REBECCA J. PHILLIPS
COMMUNITY SOLAR ENERGY GENERATOR SYSTEM

CONCEPTUAL SITE PLAN
MD. SOLAR 6000 LLC
COMMUNITY SOLAR ENERGY GENERATOR SYSTEM
REBECCA J. PHILLIPS PROPERTY
21710 YORK ROAD, FREELAND
BALTIMORE COUNTY, MD. 21063
ELECTION DISTRICT: 07 COUNTY COUNCIL DISTRICT: 3 ZONING MAP 003A3 & 003B3

TRIAD
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CSP-1.0
JOB NO.: 03-22-0564

- GENERAL NOTES:**
- OWNER: REBECCA J. PHILLIPS
107 WEATHERBY LANE
GLASSBORO, NJ. 08028
 - TAX MAP 0003, GRID 0021, PARCEL 0030
 - TAX ACCOUNT: #071300825
 - SITE AREA = 36.38± AC.
 - ELECTION DISTRICT: 07 / COUNTY COUNCIL DISTRICT: 3
 - DEED REFERENCE: BEING THE LANDS CONVEYED BY REBECCA J. PHILLIPS AND GREGORY A. DIEHL, AS PERSONAL REPRESENTATIVES OF THE ESTATE OF HELEN V. DIEHL, UNTO REBECCA J. PHILLIPS BY DEED DATED JULY 2, 2014 AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND AT LIBER 36162 FOLIO 138.
 - WATERSHED: LOCH RAVEN RESERVOIR AND DEER CREEK
 - REGIONAL PLANNING DISTRICT: HEREFORD MARYLAND LINE
 - CENSUS TRACT: 4070.02
 - PREVIOUS COMMERCIAL PERMIT: NO KNOWN PREVIOUS COMMERCIAL PERMITS FOR THIS SITE EXCEPT FOR THE FOLLOWING: PERMIT NO. B892781RAZED SINGLE FAMILY DWELLING, NO IMPROVEMENTS LOCATED ON SITE.
 - ZONING HEARINGS, CRG, DRC, WAIVERS: NO KNOWN ZONING HISTORY CASES. NO KNOWN PREVIOUSLY APPROVED PLANS. THE PROPERTY IS NOT UNDER ACTIVE ZONING VIOLATION(S).
 - THE SITE IS ZONED RC 2 - AGRICULTURAL (ZONING MAPS 003A3 AND 003B3).
 - EXISTING USAGE IS AS AGRICULTURAL FIELD. PROPOSED USAGE IS A SOLAR PANEL FARM.
 - MINIMUM BUILDING SETBACKS PER §4F-104-REQUIREMENTS:
- | FRONT | SIDE | REAR | MAXIMUM HEIGHT |
|-------|------|------|----------------|
| 50' | 50' | 50' | 20' |
- PROPOSED PANEL HEIGHT= 17 FT. MAX.
 - NO FREE STANDING SIGNS ARE PROPOSED ON SITE.
 - THERE IS NO WATER OR SEWER PROPOSED FOR THIS SITE.
 - THIS SITE IS NOT AFFECTED BY THE 100-YEAR FLOOD PLAIN AS SHOWN ON F.E.M.A. COMMUNITY PANEL NO. 240010035F DATED SEPTEMBER 26, 2008. SITE IS IN ZONE 'X'.
 - NO KNOWN STREAMS, STORMWATER MANAGEMENT SYSTEM AND PIPE SYSTEMS ON OR WITHIN 50 FEET OF THE PROPERTY LINE.
 - THERE ARE NO BUILDINGS EXISTING OR PROPOSED ON SITE.
 - THERE ARE NO PARKING SPACES EXISTING OR PROPOSED ON SITE.
 - THERE ARE NO FIRE HYDRANTS LOCATED IN THE GENERAL VICINITY.
 - THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
 - THE SITE IS NOT WITHIN A BALTIMORE COUNTY HISTORIC DISTRICT OR ON A PROPERTY THAT'S ON THE BALTIMORE COUNTY'S FINAL LANDMARK LIST.
 - THE SITE IS NOT WITHIN A FAILED AREA ON BALTIMORE COUNTY'S 2024 BASIC SERVICES MAPS.
 - THE MARYLAND HISTORIC TRUST REVIEWED THE PROPOSED PROJECT AND DETERMINED THAT THE UNDERTAKING WILL HAVE NO ADVERSE EFFECT ON HISTORIC PROPERTIES ON 10-12-2022.
 - PER §4F-104-REQUIREMENTS, A LANDSCAPING BUFFER WILL BE PROVIDED.
 - THERE IS NO AGRICULTURAL PRESERVATION EASEMENT, A RURAL LEGACY EASEMENT OR AN ENVIRONMENTAL PROTECTION EASEMENT LOCATED ON SAID SITE.



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DATE: 03-23-2023
SCALE: 1"= 100'

STATE OF MARYLAND
PROFESSIONAL ENGINEER
REBECCA J. PHILLIPS
LICENSE NO. 34688 EXPIRATION DATE: 07-01-2023

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www.triadeng.com
SHEET NUMBER:
CSP-1.0
JOB NO.: 03-22-0564