



FREDERICK COUNTY PLANNING COMMISSION

December 19, 2018

TITLE: **Whitmore/Biggs Ford Solar Center**

FILE NUMBER: **R-18-01**

REQUEST: Rezone 151 acres (Whitmore property)
from Agricultural to Solar Facility –
Commercial.

PROJECT INFORMATION:

LOCATION: northwest corner of Biggs Ford Rd. and Dublin Rd.

ZONE: Agricultural (A)

REGION: Walkersville

WATER/SEWER: No Planned Service (NPS)

COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES:

APPLICANT: Ralph Whitmore/Biggs Ford Solar Center, LLC

OWNER: Ralph Whitmore

ENGINEER: Triad Engineering Inc.

ARCHITECT:

ATTORNEY:

STAFF: Jim Gugel, Planning Director

RECOMMENDATION: Denial

ATTACHMENTS:

Staff report

Comment letters

Application material

December 3, 2018

Frederick County Division of Planning & Permitting
Staff Report

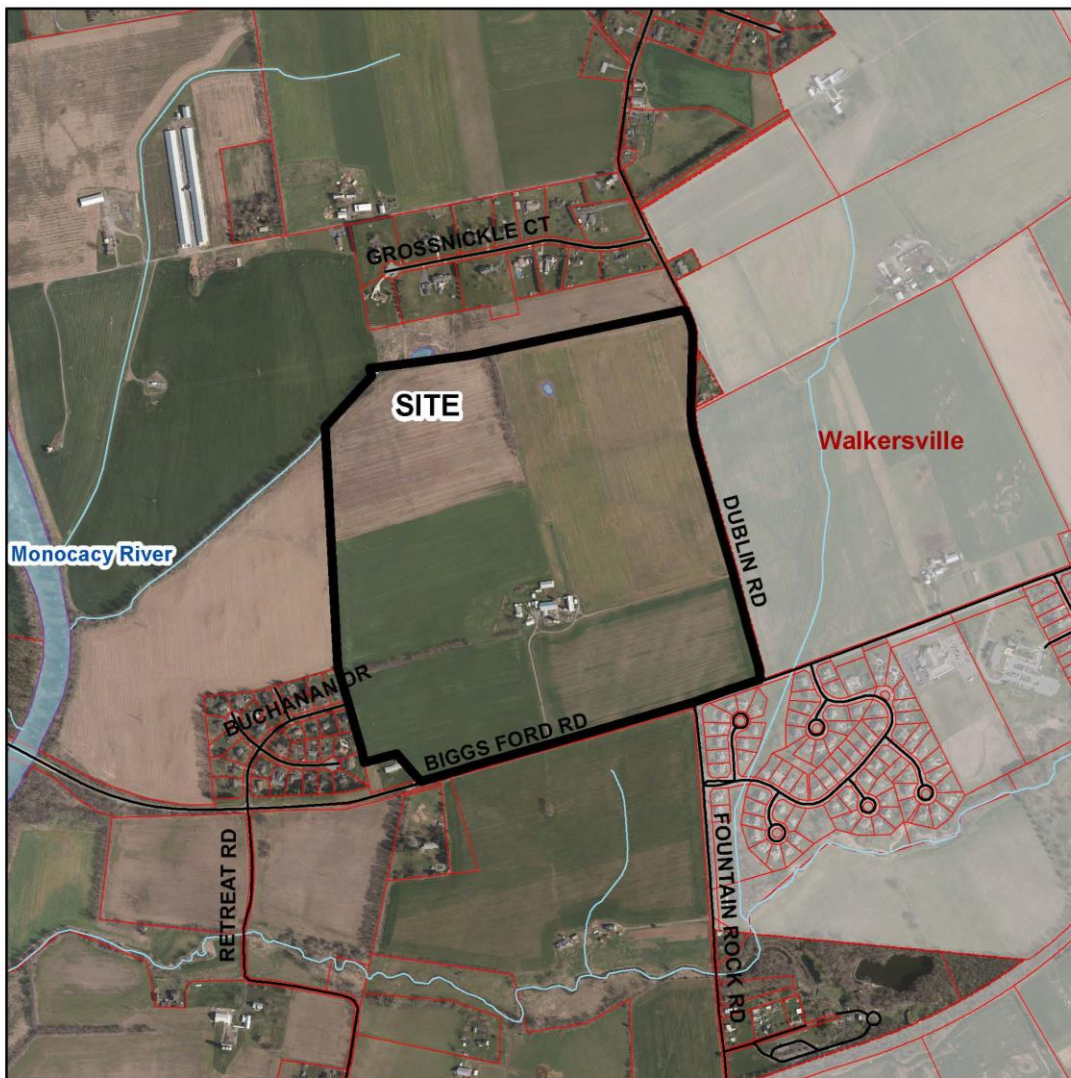
Zoning Map Amendment

CASE NUMBER: R-18-01

APPLICANT: Ralph Whitmore/Biggs Ford Solar Center, LLC

REQUEST: Rezone 151.3 acres from Agricultural to the Solar Facility – Commercial Zoning District

LOCATION: Northwest corner of Biggs Ford Rd. and Dublin Rd.



I. Applicant's Proposal

The applicant, Ralph Whitmore, is proposing to rezone the 151.3 acre property from Agricultural (A) to the recently created Solar Facility – Commercial Zoning district to allow for the development of a solar array facility.

Concept Plan

The Concept Plan shows the foot print for the solar arrays, which will all be ground mounted and approximately 7-10 feet in height. The arrays are oriented in rows that run in a north-south direction with the panels appearing to be facing due east. The arrays are arranged in blocks with two columns of varying lengths. Each column is approximately 145 feet in width with a block of two columns being approximately 290 feet wide. The row of arrays are spaced 20 feet on center.

The total foot print of the arrays is 96.7 acres, which is 64% of the total site area of 151.3 acres.

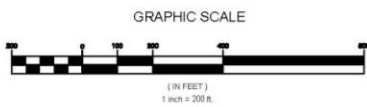
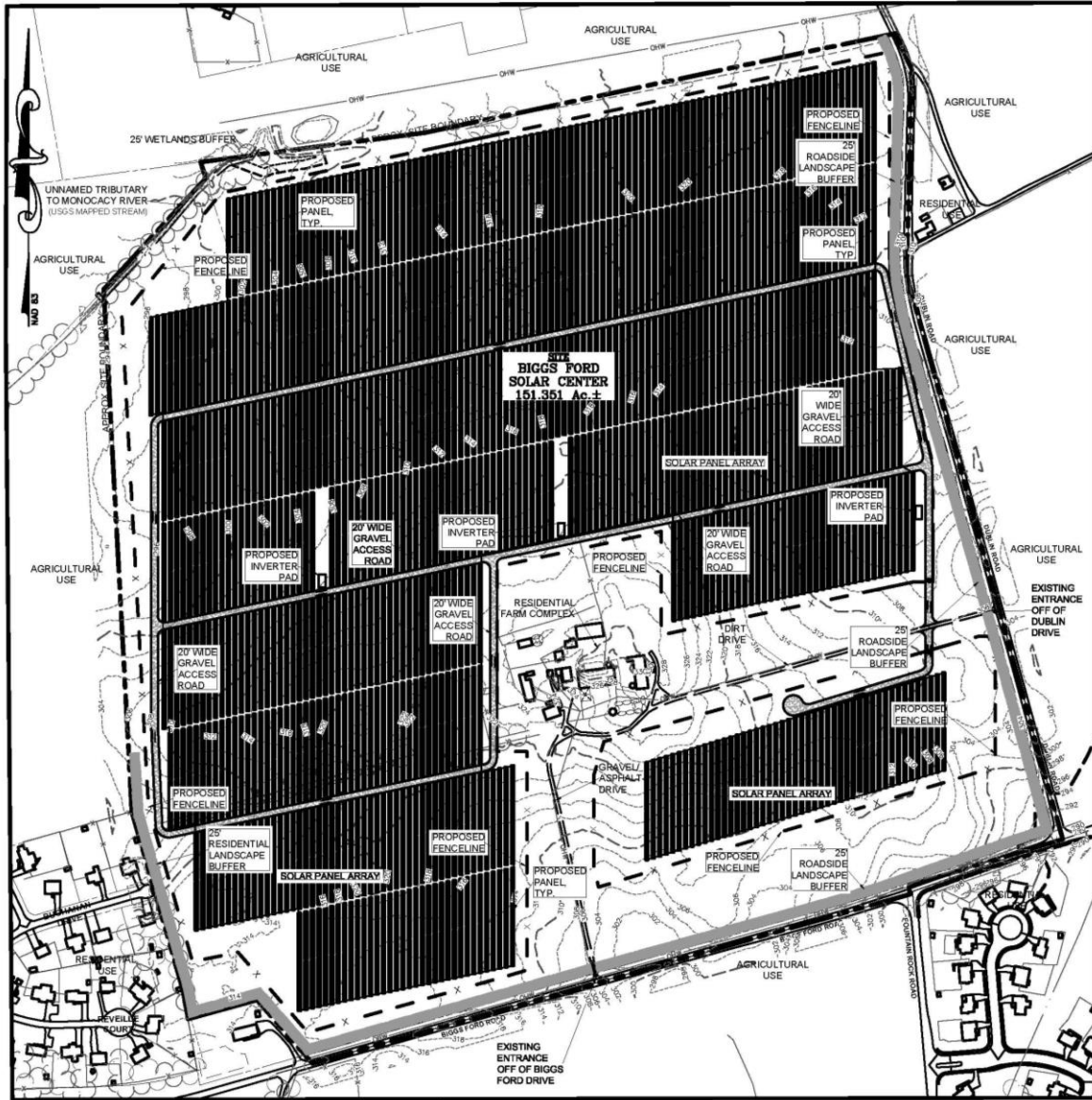
The Plan identifies a 25 foot wide landscaped buffer along the frontages of Dublin Rd. and Biggs Ford Rd. The buffer also extends along the western property line for approximately 1,250 feet to buffer the adjoining Dublin Manor subdivision. Further inside the site is proposed fencing, likely a chain link perhaps 6 feet high, that will surround the perimeter of the solar array blocks and will have gates to restrict access from the proposed gravel driveways.

The site access will be from two existing dirt/gravel driveways that serve the farm, one on Dublin Rd. and one on Biggs Ford Rd. There will be a network of 20 foot wide gravel driveways to provide access to the blocks of arrays.

The Plan identifies six (6) inverter pads located throughout the site for equipment that would presumably collect the electricity from the solar panels for distribution to the electric grid. The Plan does not show how or where the facility will be connected to either nearby distribution lines or transmission lines.

Phasing Plan

If the rezoning application is approved, the proposed facility would require a site plan review by the County, which would take at least 4 months. The construction of the proposed facility is proposed to take approximately 6-7 months.



TOTAL AREA OF SOLAR ARRAY
 4,210,783 SQ. FT. = 96.67 AC.

II. Evaluation - County Plans and Regulations

Size and Location Criteria

- (1) The site is zoned Agricultural (A) and has a land use plan designation of Agricultural/Rural.
- (2) The site adjoins the Walkersville Community Growth Area boundary that runs along Dublin Rd. and Biggs Ford Rd.
- (3) The site area is 151.3 acres, which falls within the prescribed range of 10 acres to 750 acres.
- (4) The site is located within the Walkersville Priority Preservation Area (PPA) and is within 2 miles of the centerline of US 15.

The application DOES NOT meet the location criteria (2) and (4) as described in the Zoning Ordinance, which does not allow a parcel subject to the requested zoning to be contiguous to a community growth boundary or to be within a PPA. The parcel is within 2 miles of US 15 which requires the applicant to establish that the project will not be visible from US 15. The application does not have any documentation or evidence to address visibility from US 15.

Consistency with Comprehensive Plan

The County Comprehensive Plan designates the property as Agricultural/Rural. In addition, the property is located with the Walkersville Priority Preservation Area (PPA), which surrounds the Town of Walkersville. The Walkersville Community Growth Area boundary runs along Dublin Rd. and Biggs Ford Rd.

The Town of Walkersville's current Comprehensive Plan was adopted in 2011. The Town's Plan identifies an Ultimate Annexation Limits that surrounds the Town encompassing much of the PPA. This annexation area includes the Site and all other properties between Dublin Rd. and the River. The purpose of the Town's Ultimate Annexation Limits is to delineate an Agricultural Buffer with the intent to maintain agricultural uses and serve as a buffer between the Town and developing areas of the City of Frederick and the County. The lands between the Town's current municipal boundary and the Annexation Limits are specifically designated on the Walkersville Plan as Agricultural Buffer.

Construction of a commercial solar facility within an Agricultural Buffer would be inconsistent with the County's and the Town's Comprehensive Plans.

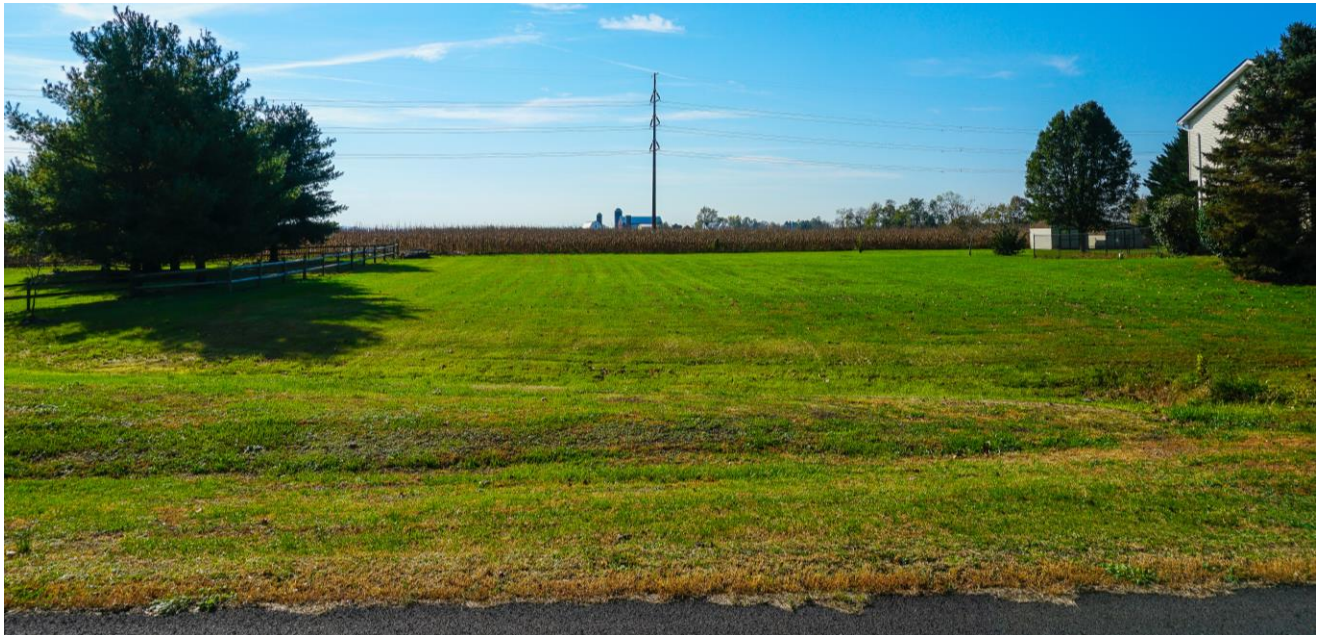
Compatibility with Adjoining Zoning and Land Uses

The adjoining County zoning includes Agricultural to the north, south and west. The adjoining Dublin Manor subdivision is zoned R-3 Low Density Residential. The Town of Walkersville zoning to the east across Dublin Rd. is Agricultural. To the southeast corner of Biggs Ford Rd. and Fountain Rock Rd. in the Town is R-1 Low Density Residential zoning.

Existing land uses include agricultural uses to the north, south, and west. To the west is the Dublin Manor subdivision and to the southeast in the Town is the Creekside Park subdivision. Nearby to the

north is the Muddy River Farms subdivision along Grossnickle Ct... All of these residential developments are single-family residences.

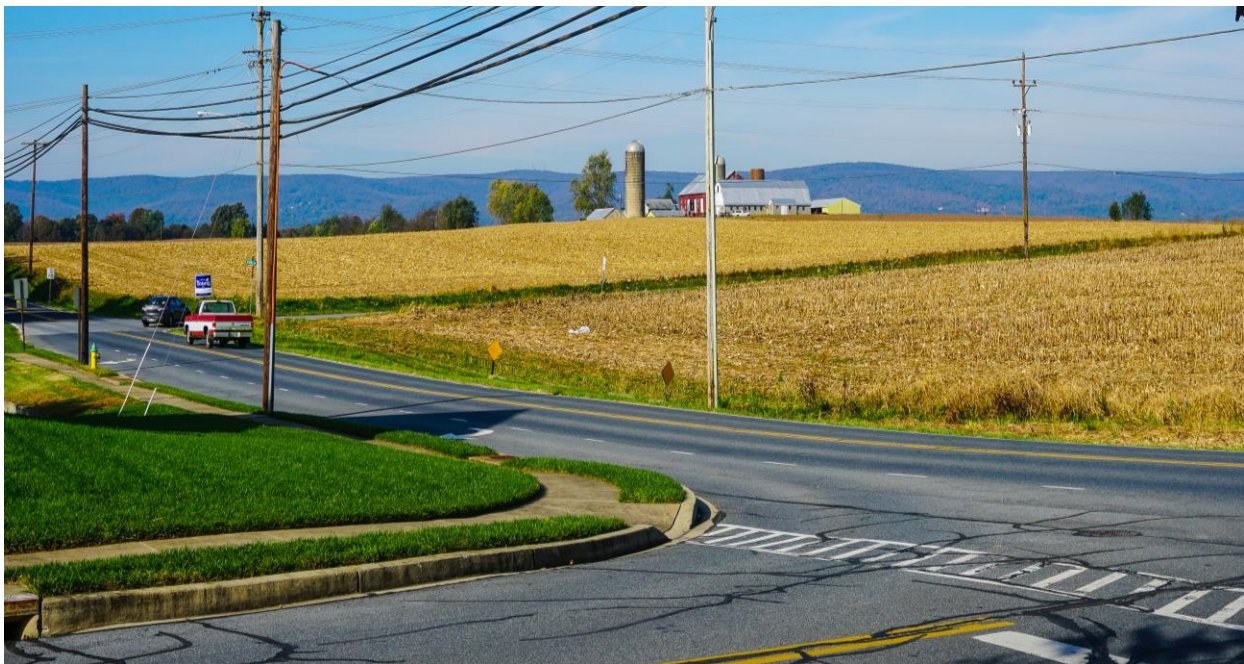
Views looking south from Muddy River Farms subdivision

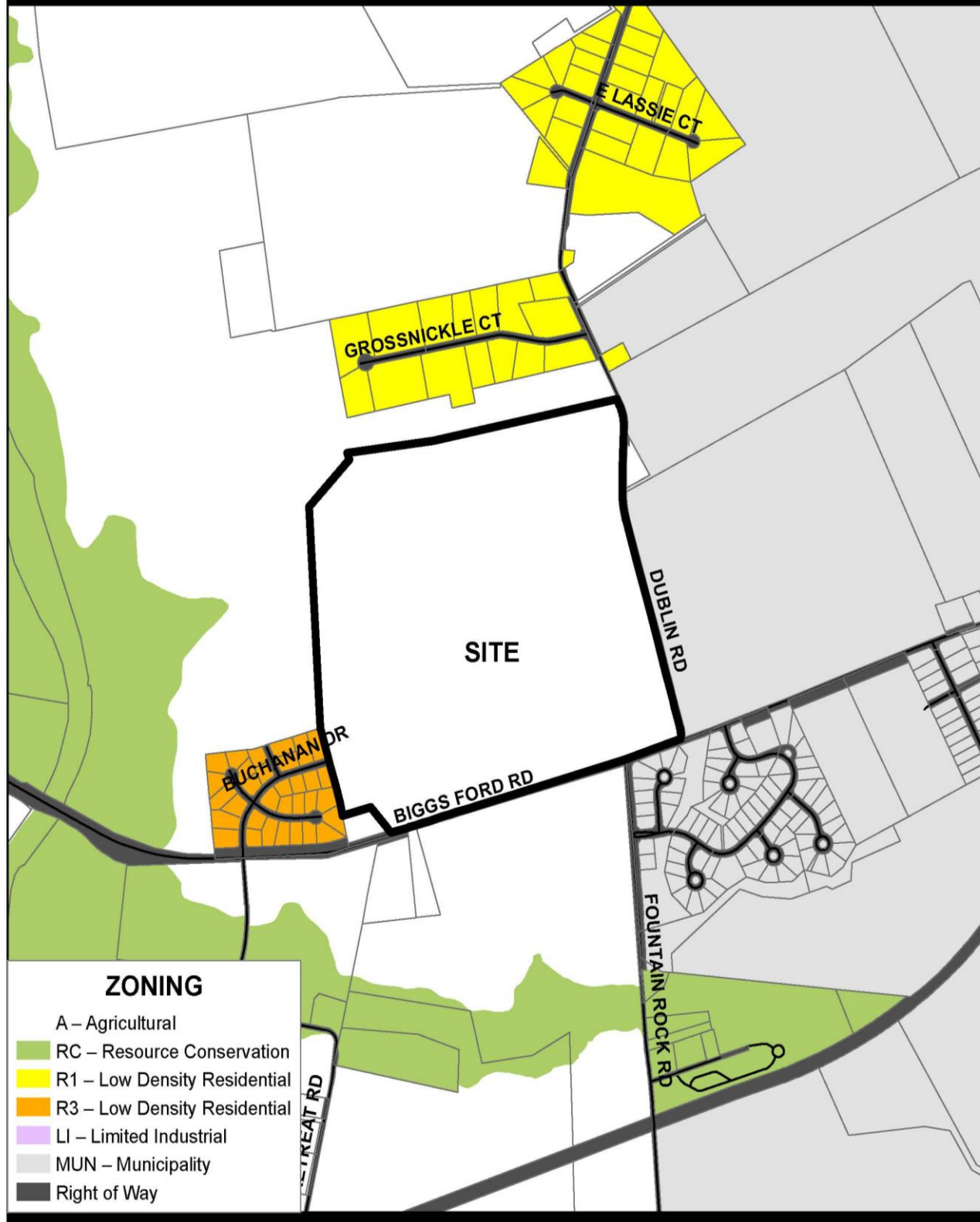


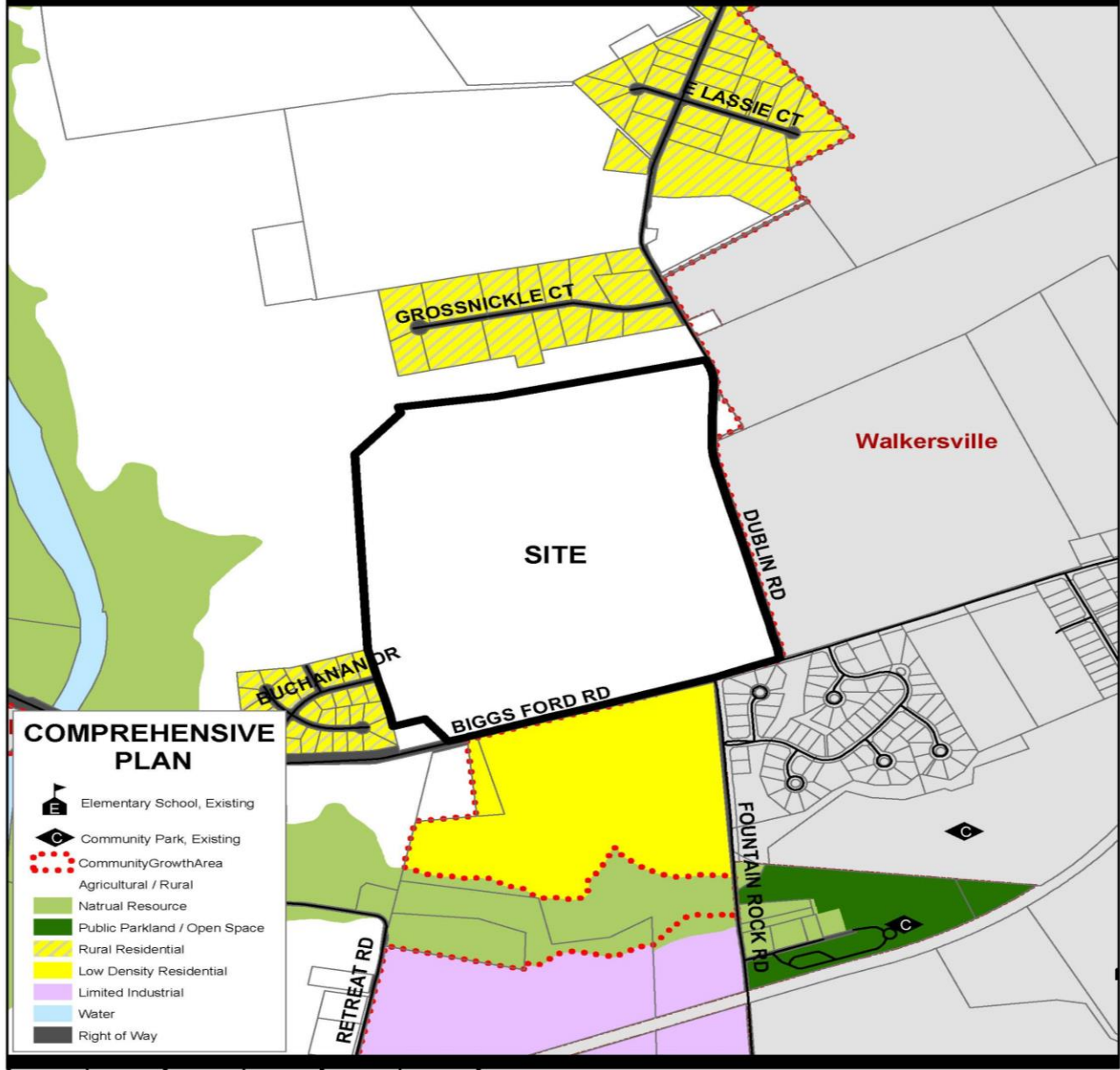
View from end of Buchanan Dr. in Dublin Manor subdivision



View looking west from Creek Walk Dr./Biggs Ford Rd. in Creekside Park subdivision







Environmental and Cultural Features

The site is an active crop operation with open, cultivated fields. There are only two narrow tree lines that separate some of the fields. There is a small unnamed stream along the northwest boundary of the property that is a tributary to the Monocacy River.

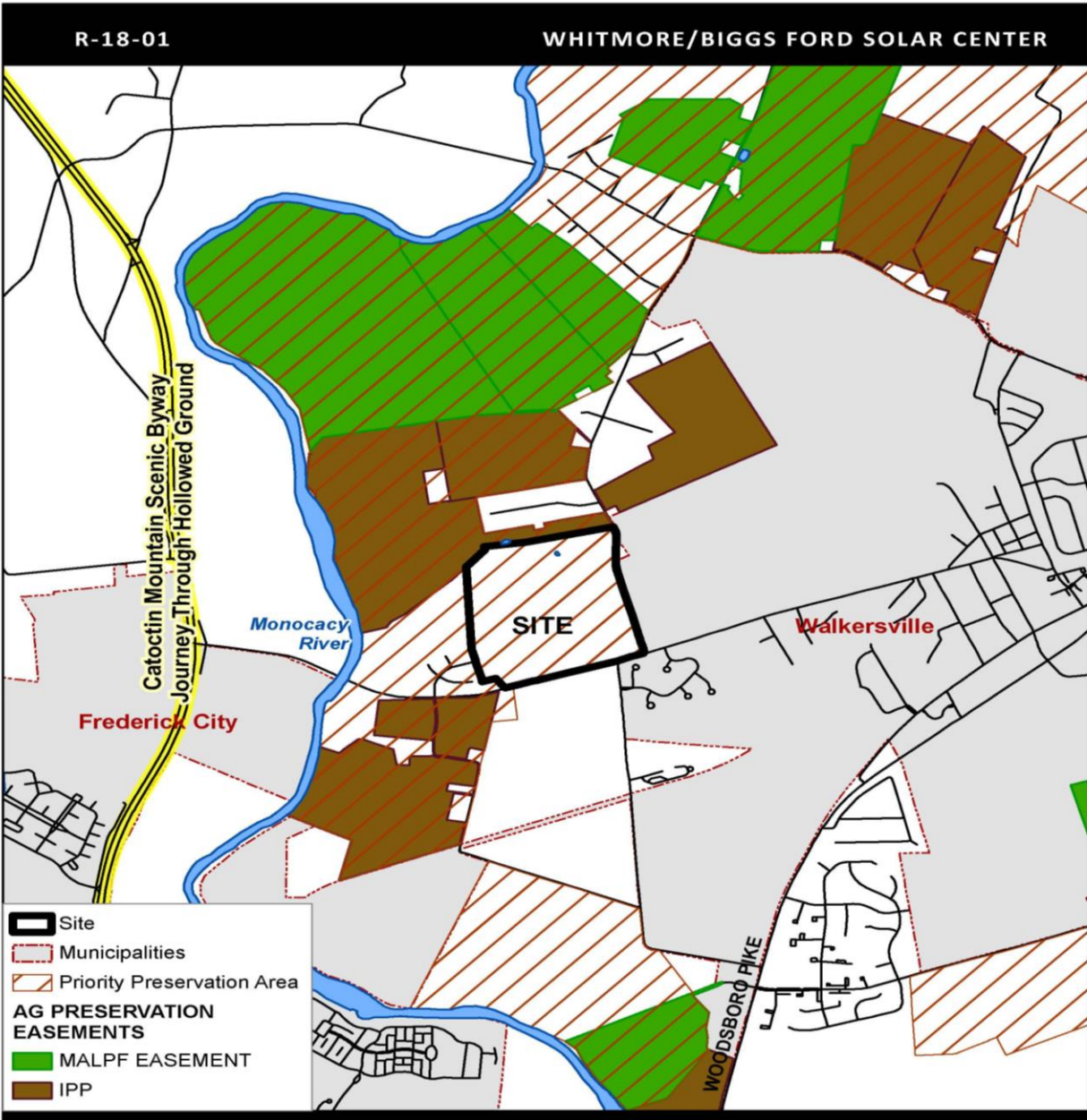


Soils

The property is composed of 100 % prime farmland soils.

Agricultural Preservation

The property is located within the Walkersville Priority Preservation Area (PPA), which almost completely surrounds the Town. The adjoining farm to the west and north has an agricultural preservation easement through the County's Installment Purchase Program (IPP). Other farms to the southwest across Biggs Ford Rd. and to the northeast across Dublin Rd. are also preserved under IPP easements.



US 15 Scenic Byway/Journey Through Hallowed Ground

The western boundary of the property is approximately 0.8 miles (4,470 feet) to the centerline of US 15. The application does not provide any view shed analysis from US 15 towards the site. The farm residence and buildings, located in the center of the site sit at an elevation of about 326 – 330 feet. US 15 at Biggs Ford Rd. is at an elevation of approximately 296 feet.

Based on Staff's observations, the site is not visible from either northbound or southbound US 15 in the vicinity of Biggs Ford Rd.

Population Change

The proposed rezoning to Solar Facility would not have an impact on the current population number of the surrounding neighborhood.

III. Evaluation - Availability of Public Facilities and Services

Schools

As a commercial use the solar facility will not generate new students.

Water and Sewer

Current Water and Sewer Plan Classification

The property is classified No Planned Service (NPS) on the County Water and Sewer Plan. The existing residence will continue to use the existing well and septic facilities. The proposed solar facility will not require any additional well/septic facilities.

Public Safety Facilities

This site would be served by the Walkersville Volunteer Fire Company, which is approximately 2.6 miles from the site via MD 194 and Fountain Rock Rd. Police protection would be provided by the County Sheriff's Office.

Libraries

There will not be any impact on existing library facilities

Parks and Recreation Facilities

There will not be any impact on existing park facilities

Transportation Network

Existing Site Access Characteristics

The property has approximately 2,760 feet of frontage along Dublin Rd., which is a 2-lane road, approximately 20 feet wide with no shoulders. The property has approximately 2,640 feet of frontage on Biggs Ford Rd., which is a 2-lane road, approximately 20 feet wide with no shoulders. Both roads are under the County's jurisdiction and maintenance.

Highway Plan Classifications for Adjoining Roads

Biggs Ford Rd. – Minor Arterial between US 15 and Dublin Rd. (planned 80 ft. right of way) Collector east of Dublin Rd. into the Town of Walkersville

Dublin Rd. – Local road (planned 50 ft. right of way)

Programmed Improvements

There are no programmed improvements to Dublin Rd. or Biggs Ford Rd. in the current FY 2019-2024 County Capital Improvements Program (CIP).

IV. Approval Criteria

A. § 1-19-3.110.4 (A) – Approval Criteria for Zoning Map Amendments

(1) Consistency with the comprehensive plan;

Staff finds that the request to rezone the property to Solar Facility to be inconsistent with the County and Town of Walkersville Comprehensive Plans. The property is designated Agricultural/Rural on the County Plan and Agricultural Buffer on the Town's Plan. The County Plan also includes this site within a Priority Preservation Area (PPA), which supports a focus on agricultural preservation.

(2) Availability of public facilities;

The proposed solar facility would not have any impact on community/public facilities such as schools, parks, libraries, or water/sewer.

(3) Adequacy of existing and future transportation systems;

Staff finds the existing roads should be adequate for the proposed solar facility. The facility would not have any permanent staffing with only periodic visits for maintenance.

(4) Compatibility with existing and proposed development;

Compatibility with existing development, which in this case includes residential uses and agricultural uses, can be looked in a number of ways. From the point of view of activity or intensity, the proposed facility could be compatible as it does not generate significant traffic or noise that would adversely impact the adjoining residences. Looking at the size and scale of the facility, covering a footprint of 96 acres, the arrays are significantly larger in scale than either the neighboring residences or typical agricultural structures. Perhaps the most apparent assessment of compatibility for a solar facility concerns the visual impact. Notwithstanding the proposed landscape buffer, the facility will create a more industrialized landscape than what currently exists with the open crop lands. The high value placed on the County's agricultural lands and their contribution to the County's quality of life can be primarily based on the visual impact of the agricultural landscape itself.

It should also be noted that the electricity that would be generated would not be expected to support agricultural uses in the County.

(5) Population change; and,

The proposed solar facility would not have an impact on the population number of the surrounding neighborhood.

(6) The timing of development and facilities.

There are no impacts on community/public facilities related to the timing of construction of the proposed facility.

B. § 1-19-10.700 (C) – Approval Criteria for Solar Facility – Commercial Floating Zone District

(1) Approval or disapproval of a an application for a Solar Facility-Commercial Floating Zone shall be determined through evaluation of the impact of the proposed project upon the adjacent and nearby properties and whether the project will be compatible with, and have no adverse effects on,

surrounding properties and a view scapes from public parks and roadways.

There are two public parks in the vicinity of the site. The County's Fountain Rock Park is approximately 2,500 feet from the closest array on the site and the Town of Walkersville's Community Park is approximately 2,700 feet from the site. These distances are measured to the primary developed portions of the parks. Based on staff visits to the parks the proposed facility is not visible from either park.

(2) The applicant shall establish that the site is the optimal location for a commercial solar project due to its proximity to facilities to connect the project to the grid, and that the natural features of the site and location minimize the visual impact of the project on surrounding properties and those traveling on public roadways.

While the application does not provide any information on how or where the facility will connect with the adjoining electric grid, staff would note that there are two electric transmission lines traversing properties that adjoin the site. The application does not address how the natural features of the site and location minimize the visual impact.

(3) The applicant shall establish the the proposed project will be compatible with the existing and customary uses on adjoining and neighboring properties and in the Agriculture zone in terms of size, scale, style and intensity.

Compatibility with existing development, which in this case includes residential uses and agricultural uses, can be looked in a number of ways. From the point of view of activity or intensity the proposed facility could be compatible as it does not generate significant traffic or noise that would adversely impact the adjoining residences. Looking at the size and scale of the facility covering a footprint of 96 acres the arrays are significantly larger in scale than either the neighboring residences or typical agricultural structures. Perhaps the most apparent assessment of compatibility for a solar facility concerns the visual impact. Notwithstanding the proposed landscape buffer, the facility will create a more industrialized landscape than what currently exists with the open crop lands. The high value placed on the County's agricultural lands and there contribution to the County's quality of life can be primarily based on the visual impact of the agricultural landscape itself.

The application notes that the proposed landscaped buffer will mature to a height that would provide screening to limit the visual impact of the facility.

(4) The applicant shall establish the the project will not be located on prime farmland soils as identified in the USDA Soil Survey for Frederick County.

The applicant has not met this criteria as the site is composed of 100% prime farmland soils.

(5) The proposed project, including all areas of disturbances, shall not exceed the lesser of 10% of the tract's or tracts' tillable acreage or 75 acres in size.

The foot print area of the proposed arrays covers 96.7 acres, which is 64% of the total site area of 151.3 acres. The array footprint comprises 70% of the parcels' tillable acreage of 137.6 acres. The proposed arrays area exceeds the 10% threshold.

(6) A 25 foot deep buffering and screening area shall be provided along common property lines between the Solar Facility and all adjoin residential zoned property and along all adjacent roadways. The buffering and screening area may include a combination of berms, predominantly evergreen species at least 5 feet in height at the time of planting, or fencing to be determined by the County Council based on characteristic of both the solar facility location and the surrounding neighborhood. The County Council may increase the 25 foot buffering and screening area depth based

on characteristics of both the solar facility location and the surrounding neighborhood. The buffering and screening area may be located within the setback areas.

The Concept Plan delineates a 25-foot buffer along the western boundary of the site adjoining the Dublin Manor subdivision. The buffer also extends along the entire frontages of Biggs Ford Rd. and Dublin Rd. The buffer extends from an assumed right-of-way line measured 30 feet from the center line along Biggs Ford Rd. and 25 feet from the center line along Dublin Rd. While the application does not indicate if berms would be used as part of the buffer, that could be addressed as part of a site plan review.

The following approval criteria are not relevant to the evaluation of the initial rezoning and would need to be addressed only ***IF*** the rezoning is approved.

(7) Applicant must satisfy all Forest Resource Ordinance requirements and environmental regulations set forth Article IX of the Zoning Ordinance. (Chapter 1-19)

(8) The applicant must comply with all applicable federal and state regulations, including but not limited to obtaining a certificate of public convenience and necessity from the Public Service Commission if required, and in the removal and disposal of the solar facility and all of its components.

(9) All solar facilities and panel disconnects must be mapped and registered with the Frederick County Division of Fire and Rescue Services.

(10) If for a period of 6 months, the solar facility ceases to generate electricity or is disconnected from the electric grid, the approval will terminate. The property owner shall remove the solar facility within 90 days after termination. The property owner shall ensure the solar facility removal and disposal by posting an acceptable monetary guarantee with the County on forms provided by the Office of the Zoning Administrator. The guarantee shall be for an amount equal to the cost estimate approved by the Zoning Administrator for the removal and disposal of the solar facility, plus a 15% contingency. If a guarantee for the cost of removal and disposal of the solar facility is required by and provided to a state entity, the Zoning Administrator may accept documentation of the posting of the guarantee with the state entity as satisfaction of this requirement.

(11) If approval of the application is granted it may include conditions and restrictions deemed necessary to fulfill these criteria and to protect the intent of the agricultural/rural land use designation.

V. Staff Recommendation

Staff recommends DENIAL of the request to rezone the Whitmore property from Agricultural to Solar Facility – Commercial zoning district based upon the following findings:

1. The request is inconsistent with the County and Town of Walkersville Comprehensive Plans, which include the property within the Walkersville Priority Preservation Area (PPA).
2. The property is composed of 100% prime farmland soils.
3. The project footprint at 96.7 acres (70% of tillable acreage) exceeds the maximum threshold of 10% of the tillable acreage. The tillable acreage is 137.6 ac.