



**FREDERICK COUNTY PLANNING COMMISSION**  
**July 13, 2016**

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**TITLE:** Baker Point Solar Array

**FILE NUMBER:** SP-15-11, AP #16024, APFO#16026, FRO #16482

**REQUEST:** Site Development Plan Approval

The Applicant is requesting site development plan approval for a non-governmental utility and caretaker residence consisting of 34,000 solar panels, on a 60.75-acre site.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** 12331 Old Frederick Road, located south of the intersection of Old Frederick Road and Creagerstown Road (MD 550)

**TAX MAP/PARCEL:** Tax Map 33, Parcel 87  
**COMP. PLAN:** Agricultural  
**ZONING:** Agricultural  
**PLANNING REGION:** Thurmont  
**WATER/SEWER:** W-NPS/S-NPS

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:** Baker Point, LLC  
**OWNER:** Baker Point, LLC.  
**ENGINEER:** Triad Engineering, Inc.  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

Exhibit 1-Baker Point Solar Site Plan & Landscape Plan Rendering

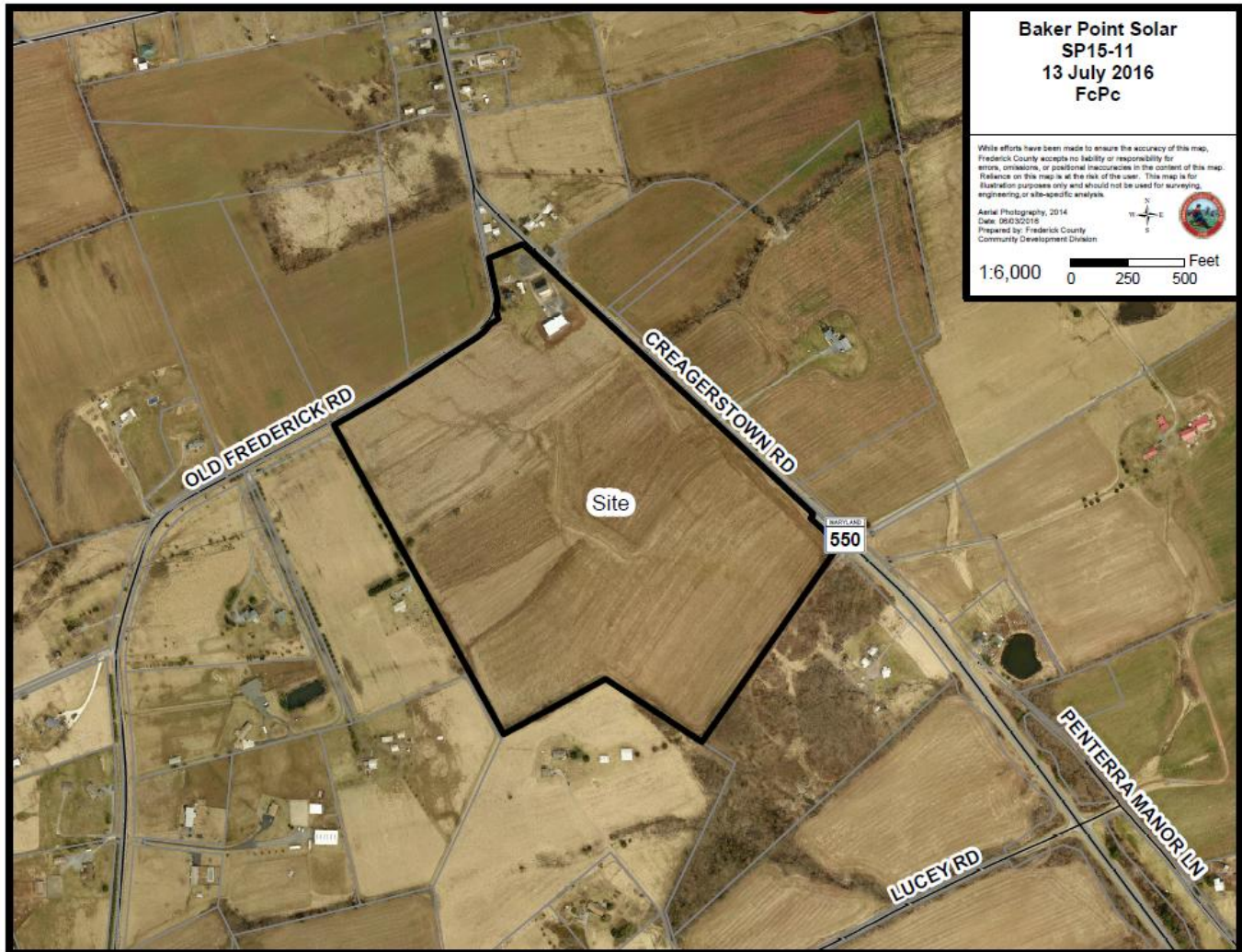
# STAFF REPORT

## ISSUE

### Development Request

The Applicant is requesting site development plan approval for a non-governmental utility consisting of 34,000 solar panels and a caretaker's residence, on a 60.75-acre site, see Graphic #1 below. The proposed use is being reviewed as a 'Non-Governmental Utility' land use under the heading of *Governmental and Nongovernmental Utilities* per §1-19-5.310 Use Table. 'Non-Governmental Utility' is a special exception use subject to approval by the Frederick County Board of Zoning Appeals (BOA) in the AG Zoning District with site development plan approval by the Frederick County Planning Commission. The Caretaker's Residence is a permitted use in conjunction with a permitted use in the Agricultural Zoning District subject to site development plan approval.

Graphic #1: Baker Point Site Aerial



## BACKGROUND

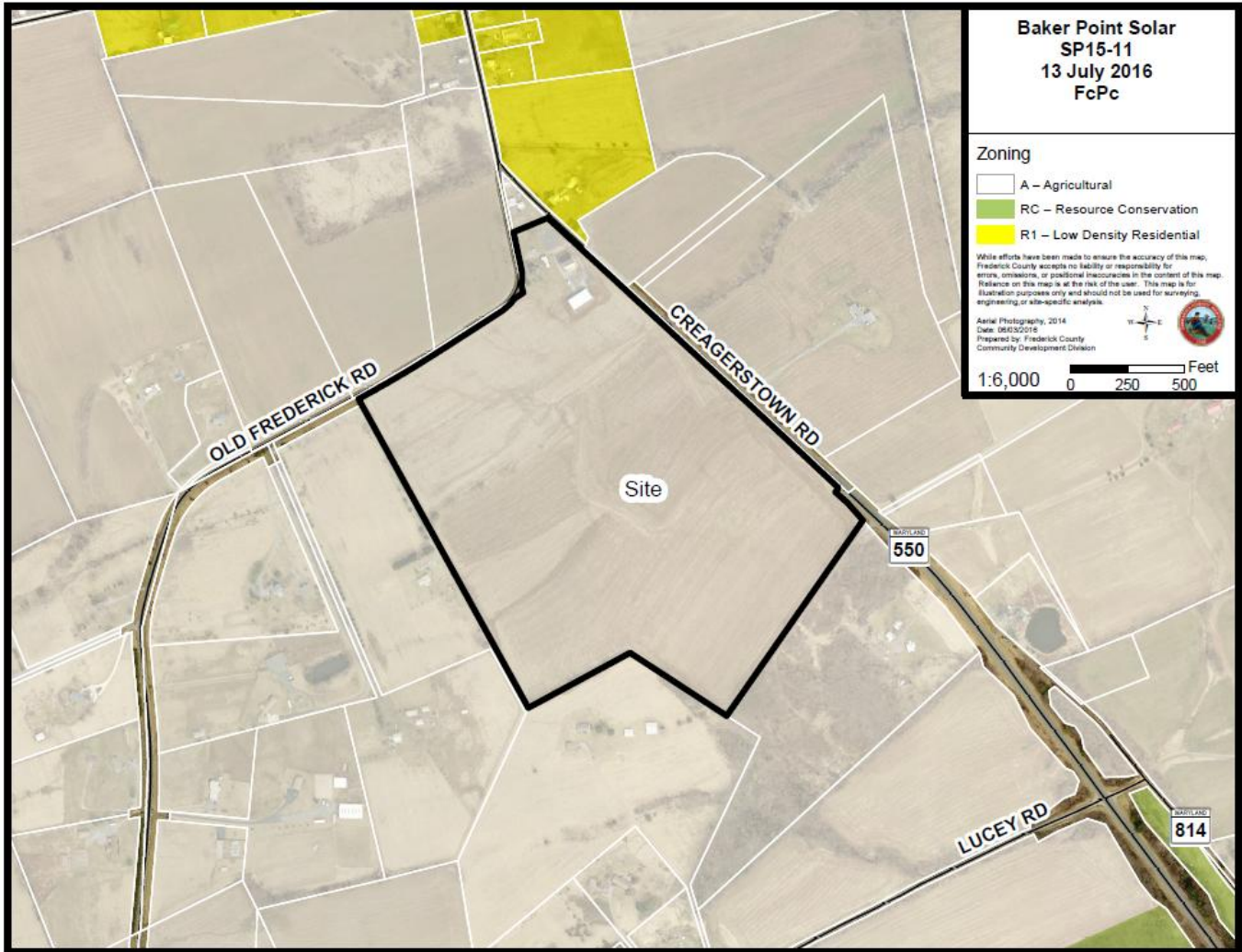
### Development History

On October 22, 2015, the BOA held a public hearing (B-15-23) on the special exception use of a non-governmental utility located on 60.75 acres in the AG zoning district. The Findings and Decisions of B-15-23 were signed and adopted on November 19, 2015, (see sheet 1.1 of the site plan).

## Existing Site Characteristics

The site is currently zoned AG, and is active farmland with a single family residence and outbuildings. The properties surrounding the site are zoned AG and are currently single family residences and active farms, with the exception of an adjacent R-1 parcel to the north of the subject site, see Graphic #2 below.

Graphic #2: Baker Point Solar Array Site Zoning



## ANALYSIS

### Summary of Development Standards Findings and Conclusions

The main issue associated with this land development proposal was ensuring compliance with the Board of Zoning Appeals (BOA) Findings and Decision letter B-15-23 adopted on November 19, 2015. The main issue with the BOA approval was identifying how the Applicant can adequately address the visual impact of the proposed development. In order to comply with this requirement, the Applicant provided a 25' wide landscape buffer that was required to be constructed around the entire perimeter of the site. Staff and the Applicant worked at length to ensure that the buffer would provide a full evergreen and deciduous tree and shrub buffer around the entire perimeter of the site. The site contains wetlands and an unnamed tributary to the Monocacy River. Both features are located in the center of the site, and both features are proposed to be preserved through a perpetual forest conservation easement.



## Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County Zoning Ordinance.

**Site Development §1-19-3.300.4 (A):** *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

### Findings/Conclusions

- 1. Dimensional Requirements/Bulk Standards §1-19-6.100:** Sections 1-19-6.100 & 1-19-8.339 of the Zoning Ordinance stipulate the setback requirements and the minimum lot area for the proposed use within the Ag zoning district. The setback requirements are 50-foot front yard, rear yard, and side yards. The minimum lot size for a non-governmental utility in the Ag zoning district is 10 acres square feet. The proposed plan meets the required Bulk/Dimensional requirements.
- 2. Signage §1-19-6.300:** The Applicant is proposing two- 3.75 square foot signs and approximately twenty-nine- 0.4 square foot site identification signs totaling 19.1 sq feet, not to exceed the maximum 25 square foot allotment of signage allowed for Business identification within the AG district. The proposed signage will adhere to the minimum setback requirements for the zoning district.
- 3. Landscaping and Screening §1-19-6.400:** In accordance with Z.O. §1-19-8.339, screening and landscaping is required as approved by the Board of Appeals.
- 4. Lighting §1-19-6.500:** No site lighting is proposed for the project site.
- 5. Special Exception Criteria for Nongovernmental Utilities in the RC/AG §1-19-8.339:**

The Applicant received special exception approval for a non-governmental utility from the Board of Appeals in October of 2015 with the findings and decisions issued in November of that same year. The findings and decisions have been included on page 1.1 of the site development plan. The findings and decisions state that the Applicant will provide a 25-foot deep vegetative buffer comprised of native evergreen shrubs and bushes. The vegetative buffer would be planted along sections of the solar farm and adjacent to neighboring properties and along the roads.

Staff worked with the Applicant to provide this buffer in accordance with the BOA findings and decisions. In order to comply with this requirement, the Applicant provided a 25' wide landscape buffer that was required to be constructed around the entire perimeter of the site. Staff and the Applicant worked at length to ensure that the buffer would provide a full evergreen and deciduous tree and shrub buffer around the entire perimeter of the site.

**Transportation and Parking §1-19-3.300.4 (B):** *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

## Findings/Conclusions

1. **Access/Circulation:** There is a 20' wide access onto Old Frederick Road that will be the only site access for solar array construction and maintenance. The use is an un-manned solar array; therefore there will not be visitors or employees regularly visiting the site. The site is proposed to have an access road throughout the site in order to provide employee access and circulation when necessary.
2. **Connectivity §1-19-6.220 (F):** The use is an un-manned solar array; therefore there will not be visitors or employees regularly visiting the site. The site is not proposing any connectivity with any adjacent properties.
3. **Public Transit:** This site is not served by TransIT.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** The use is an un-manned solar array; there will not be visitors or employees regularly visiting the site. Therefore, parking, loading, and ADA spaces are not required.
5. **Bicycle Parking §1-19-6.220 (H):** Bicycle parking is not required in the Agricultural zoning district unless the specific use is noted in the zoning ordinance within the bicycle parking requirements table and the proposed site is within 1.2 miles of a designated growth area. This site is approximately 2.3 miles from the nearest designated growth area, therefore no bicycle parking stalls are required.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The use is an un-manned solar array, there will not be visitors or employees regularly visiting the site. Therefore pedestrian circulation throughout the site is not anticipated.

**Public Utilities §1-19-3.300.4 (C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

## Findings/Conclusions

1. **Private Well and Septic:** The use is an un-manned solar array; there will not be visitors or employees regularly visiting the site. The site is classified as W-NPS, S-NPS, there are no water or sewer services proposed for the solar array use. The Health Department is conditionally approved.

**Natural features §1-19-3.300.4 (D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

## Findings/Conclusions

1. **Topography:** The site is relatively flat; there is a gentle slope that runs from the south to lower elevations to the north.
2. **Vegetation:** The site is active farmland that is planted with crops. The perimeter of the site contains mature hedgerow trees and shrubs.
3. **Sensitive Resources:** There are Palustrine emergent wetlands located in the middle of the site. Triad Engineering conducted a wetland and waterway delineation dated May 15, 2015. There is also an unnamed tributary to the Monocacy River that runs west and north through the site. The

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Applicant has provided a 50' stream buffer on both sides of the unnamed tributary as well as a 25' buffer around all of the wetlands on site. This 4.58 acre area is proposed to be a forestation area and will be placed under a perpetual forest conservation easement. There is no disturbance of sensitive environmental features proposed on this site.

**4. Natural Hazards:** There are no natural hazards located on site.

**Common Areas §1-19-3.300.4 (E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

#### **Findings/Conclusions**

- 1. Proposed Common Area:** The use is an un-manned solar array; therefore there will no proposed public common areas on site.
- 2. Ownership:** The proposed solar array facility is a privately owned and operated facility.

#### **Other Applicable Regulations**

**Stormwater Management – Chapter 1-15.2:** Stormwater management shall be provided in accordance with Maryland 2000 SWM Design Manual and its latest revisions. Water quality volume is provided by non-structural BMP's. Site slopes and development layout provide for implementation of non-rooftop disconnects to meet ordinance requirements. A stormwater management concept plan (AP 16025) has been approved for the site.

#### ***APFO – Chapter 1-20:***

- 1. Schools.** Schools are not impacted because the development of the property is a non-residential use.
- 2. Water/Sewer.** The use is an un-manned solar array; therefore there will not be visitors or employees regularly visiting the site, there are no water or sewer services proposed for the solar array use.
- 3. Roads.** This plan is exempt from APFO, because this is a non-residential, un-manned facility generating less than one vehicle trip per day.

**Forest Resource – Chapter 1-21:** The Applicant has submitted a Combined Preliminary/Final Conservation Plan. The site does not contain forest, but does have a stream system with associated wetland areas, which are priority areas for on-site forest mitigation. The applicant is meeting the 10.09 acre afforestation requirement by planting the 4.58 acre stream and wetland buffer areas, by claiming 1.85 acres of miscellaneous credit for native landscape plantings, and by purchasing forest banking credits (3.66 acres of new forest credit or 7.32 acres of existing forest credit).

The FRO plan must be approved prior to Site Development Plan approval. FRO mitigation must be provided prior to applying for any grading or building permits, whichever is applied for first.

**Historic Preservation – Chapter 1-23:** The Maryland Historical Trust issued a letter dated June 28, 2016, which stated that the 25' wide four season vegetative buffer proposed satisfactorily reduced any potential adverse impacts from the 34,000 solar panel solar farm on the setting and views of the site area. There are no historical resources located on site.

**Executive Order No. 01-2016:** On January 15, 2016 Executive Order No. 01-2016 was issued which placed a temporary hold on considering new applications for a special exception or site plan approval for nongovernmental utilities as defined in the County Zoning Code. The Executive Order did not apply to solar projects on federal, state or local government owned land that produces energy for governmental uses, nor did it apply to special exception requests filed prior to January 15, 2016, or community solar projects up to ten (10) acres in size. The Baker Point Special Exception B-15-23 was approved and adopted on November 19, 2015, prior to the issuance of Executive Order No. 01-2016. The Executive Order is scheduled to expire on July 15, 2016, unless extended by the County Executive.

**Summary of Agency Comments**

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Approved
<b>Development Review Planning:</b>	Hold: Address all agency comments as the plan proceeds through to completion.
<b>State Highway Administration (SHA):</b>	Approved
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	Approved
<b>Health Dept.</b>	Conditional Approval
<b>Office of Life Safety</b>	Conditional Approval
<b>DPDR Traffic Engineering</b>	Approved
<b>Historic Preservation</b>	N/A

**RECOMMENDATION**

Staff has no objection to conditional approval of the site plan for a non-governmental utility consisting of 34,000 solar panels, on a 60.75-acre site. If the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval and will therefore expire on July 13, 2019.

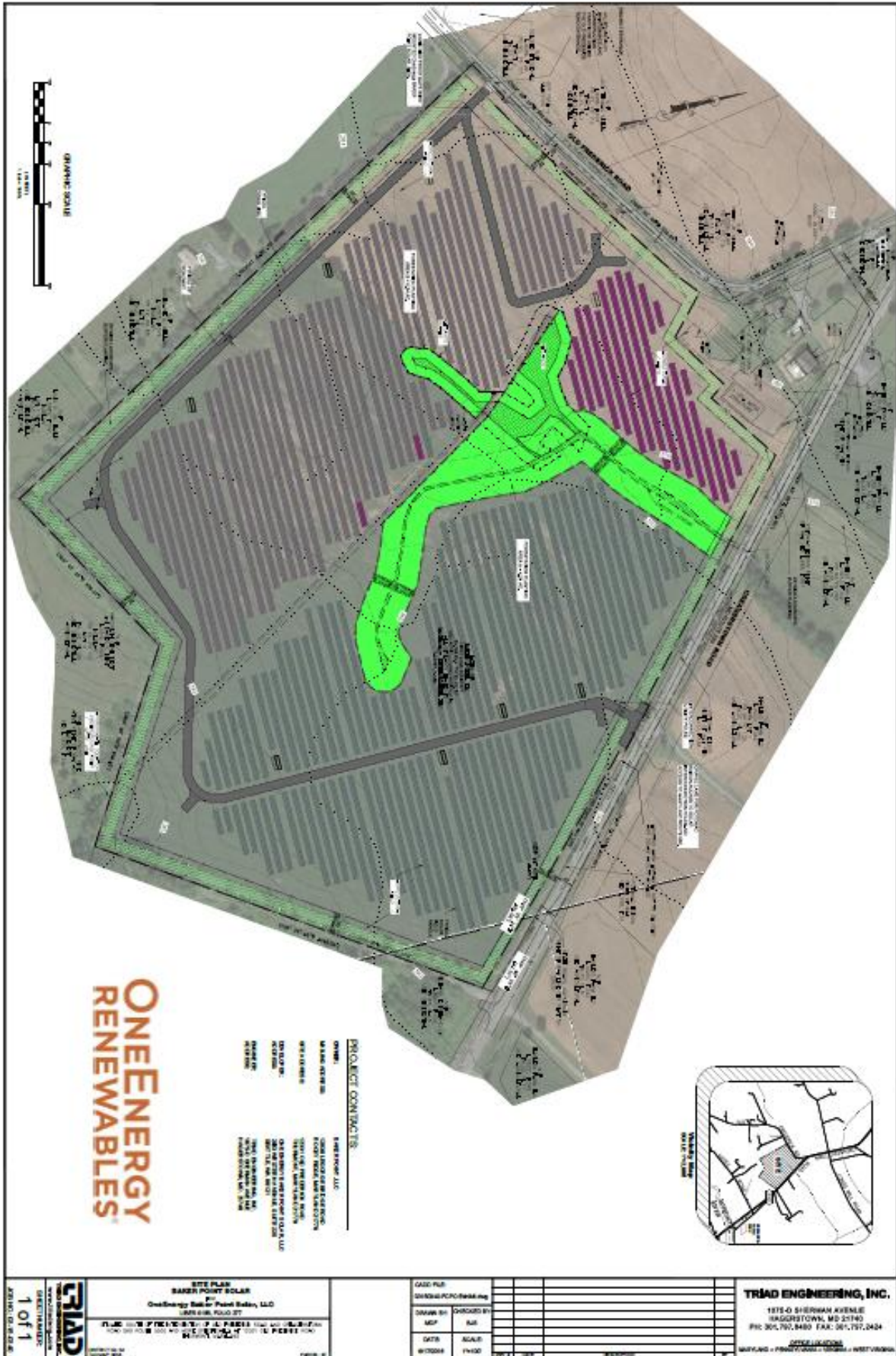
Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. The FRO plan must be approved prior to Site Development Plan approval. FRO mitigation must be provided prior to applying for any grading or building permits, whichever is applied for first.
3. Prior to final Site Development Plan approval the Applicant shall add the following to the purpose statement "...approval of a solar array being a non-governmental utility as well as a caretaker residence..."
4. Comply with the Board of Appeals findings and conditions as provided in Case No. B-15-23.

**PLANNING COMMISSION ACTION**  
**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** SP-15-11, AP 16024 **with conditions** as listed in the staff report for the proposed non-governmental utility consisting of 34,000 solar panels, on a 60.75-acre site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1: Baker Point Solar Array Site Plan & Landscape Plan Rendering





**PLANTING SPECIFICATIONS**

1. **GENERAL**  
 A. All plants shall be of good quality, well established, and free from disease, insect damage, or other defects. The plants shall be of the variety and size specified in the schedule. The plants shall be delivered to the site in a container and shall be protected from frost and other damage during transport and storage. The plants shall be delivered to the site in a container and shall be protected from frost and other damage during transport and storage. The plants shall be delivered to the site in a container and shall be protected from frost and other damage during transport and storage.

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