

JUSTIFICATION STATEMENT

BIGGS FORD SOLAR CENTER

FLOATING ZONE REQUEST

§ 1-19-3.110.4. APPROVAL CRITERIA.

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and County Council review will include, but not be limited to:

(1) Consistency with the comprehensive plan;

Section 3 of Frederick County's 2010 County Comprehensive Plan, entitled "Conserving Our Natural Resources and Green Infrastructure" specifies goal NR-G-02 to "Encourage the use of local non-polluting renewable and recycled resources (water, energy, food, material resources)." There is no energy resource that is more local or non-polluting than a solar energy generating facility.

(2) Availability of public facilities;

Road access is the only relevant public facility. Biggs Ford Solar Center will have two access points, one from Biggs Ford Road, and the other from Dublin Road. Both roads are adequate to accommodate the vehicle traffic that will be required, both during construction and during operation.

(3) Adequacy of existing and future transportation systems;

See section (2) above.

(4) Compatibility with existing and proposed development;

The land use surrounding the proposed site is primarily agricultural, with some residential. Given that the proposed project will produce no glare, no vibrations, and no measurable noise above background noise, the only compatibility feature worth noting is the viewshed. To mitigate any potential viewshed incompatibility, a 25-foot wide vegetated buffers will be planted to provide screening from adjacent residential uses and/or public or private roads. The landscape buffer will mature to a height suitable to provide an opaque screen of the project site thereby providing screening that will limit the visual impact of the project to nearby properties.

(5) Population change; and

As the population of Frederick County has grown, so has its electricity usage. The proposed project will improve the power and reliability of the local electricity grid, thus supporting additional population growth without the need for the construction of "brown power" facilities.

(6) The timing of development and facilities.

The proposed project has been under development since early 2016. Once approved, construction would commence within 6-12 months. After commencement of construction, commercial operation would be achieved within another 6-12 months.

§ 1-19-10.700. SOLAR FACILITY - COMMERCIAL FLOATING ZONE DISTRICT.

(A) Solar facility, Commercial shall be a floating zone which may be established within the Agricultural zone having the corresponding Comprehensive Plan land use designation. Commercial Solar facilities can play an important role by providing alternative energy sources, however because of their size, scale and intensity these commercial facilities may create adverse impacts on nearby properties and the adversely affect the rural and scenic characteristics of agricultural areas. Review and siting of these facilities through a floating zone process will maintain the purpose and protect the character of agricultural areas.

(B) Size and location.

(1) The tract or tracts of land eligible to receive the Solar Facility- Commercial District must be zoned Agriculture and have a Comprehensive Plan land use designation of agricultural/rural.

The tract of land is zoned Agricultural and has a Comprehensive Plan land use designation of agricultural.

(2) The tract or tracts of land which is the subject of the floating zone application may not be contiguous to a community growth boundary as designated on the County Comprehensive Plan. (For purposes of this subsection, a property separated from a community growth boundary by a transportation or utility right of way (whether fee simple or lesser interest) is deemed to be contiguous as if such right of way did not exist.)

The tract is contiguous to the Walkersville Community Growth Area. However, the Applicant submits that this criteria should not apply to the proposed project, as the criteria unreasonably limits (and essentially prohibits) the ability of a viable commercial Solar Facility to locate in Frederick County.

(3) The tract or tracts of land which is the subject of the floating zone application shall have a minimum size of 10 acres and shall not exceed 750 acres.

The tract of land is approximately 151 acres.

(4) The tract or tracts of land which is the subject of the floating zone application may not be encumbered by an Agricultural Preservation Easement, located within a Priority Preservation Area (PPA) or a Rural Legacy Area (RL) in the County Comprehensive Plan, or be located within two (2) miles of the centerline of the right-of-way of U.S. Route 15, outside the Frederick City limits from the Pennsylvania border to the Virginia border, that Route having been designated as part of the Journey Through Hallowed Ground National Heritage Area. If the tract or tracts of land subject to the floating zone application are within 2 miles of the centerline of U.S. Route 15, the application may be conditionally accepted and the applicant will have the burden to establish that the proposed project will not be visible from U.S. Route 15.

The tract of land is located within the Walkersville Priority Preservation Area, and the tract of land is within 2 miles of the centerline of U.S. Route 15. However, the Applicant submits that this criteria should not apply to the proposed project, as the criteria unreasonably limits (and essentially prohibits) the ability of a viable commercial Solar Facility to locate in Frederick County. The Applicant intends to establish a vegetative buffer, consistent with applicable regulations, that renders the project not visible from U.S. Route 15.

(C) Approval criteria.

(1) Approval or disapproval of 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 viewscapes from public parks and roadways.

It is well-established that solar facilities do not affect the value of nearby properties. Specifically regarding the viewscapes, the Applicant will mitigate the viewshed by installing an opaque vegetative buffer surrounding the facility.

(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 the location minimize the visual impact of the project on surrounding properties and those traveling on public roadways.

The project has completed all required utility interconnection studies including the Feasibility Study, System Impact Study, and Facilities Study. The results of these studies showed that the surrounding electrical distribution infrastructure is ideal to receive power from a solar facility of the proposed size. The topography of the site is such that there will be minimal impact of the project on surrounding properties and those traveling on public roadways. As stated above, the Applicant will further mitigate the viewshed by installing an opaque vegetative buffer surrounding the facility.

(3) The applicant shall establish that 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.

In terms of size and scale, the proposed facility will not exceed the height of typical agricultural out-buildings. The intensity of the proposed facility is minimal given that there

will be no measurable noise from neighboring property lines, and the facility will be shielded by an opaque vegetative buffer.

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

Soil maps indicate a presence of prime farmland soils within the site area of the proposed facility. However, the Applicant submits that this criteria should not apply to the proposed project, as the criteria unreasonably limits (and essentially prohibits) the ability of a viable commercial Solar Facility to locate in Frederick County. The Applicant notes that it does not remove topsoil for purposes of the proposed project, and it returns the land to its current state to the extent possible following the decommissioning of the facility.

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

The proposed project exceeds 10% of the tract's tillable acreage and exceeds 75 acres in size. However, the Applicant submits that this criteria should not apply to the proposed project, as the criteria unreasonably limits (and essentially prohibits) the ability of a viable commercial Solar Facility to locate in Frederick County. The project is sized appropriately to meet the necessary electrical and commercial characteristics of a viable solar facility.

(6) A 25 foot deep buffering and screening area shall be provided along common property lines between the Solar Facility and all adjoining residentially 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 characteristics 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.

A 25 foot deep buffering and screening area will be built along common property lines between the Solar Facility and all adjoining residentially zoned property and along all adjacent roadways. The buffering and screening area will include evergreen species at least 5 feet in height at the time of planting, as required.

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

No forest clearing will occur as part of the proposed project. The Applicant will address the FRO, if determined to be applicable, in the manner prescribed by the CPCN conditions during the Site Plan review process.

(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.

The Applicant requests approval with the requirement that the Applicant and proposed project must comply with all applicable federal and state regulations.

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

The Applicant requests approval with the requirement that the solar facilities and panel disconnects are 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 a 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.

The Applicant requests approval with the requirement that a monetary guarantee is established to ensure decommissioning, as required.

(D) Application and approval.

(1) Prior to submitting an application for the floating zone, the applicant shall publicize the proposed application using a block advertisement of a size acceptable to staff including a map showing the site and a one-mile radius. The applicant shall hold a meeting in the area of the proposed facility to provide information to the members of the surrounding community regarding potential impacts of the project. Written notice of the meeting shall be provided to all abutting property owners and any homeowners/ community associations within a one-mile radius of the property. Minutes of the meeting and a list of attendees shall be submitted with the floating zone application.

The applicant held the requisite meeting May 9th, 2018 at 6:00PM in the Darrell L. Batson Community Room at the Walkersville Branch Library, 2 South Glade Rd, Walkersville, MD. Written notice of said meeting was provided to all abutting property owners and all homeowners / community associations within a one-mile radius of the property. The applicant advertised the meeting and proposed application using a block advertisement of a size acceptable to staff including a map showing the site and a one-mile radius in the May 1st, 2018 edition of the Frederick News-Post.

(2) Phase I justification and floating zone reclassification application and procedures will be the same as established in §§ 1-19-3.110.1 through 1-19-3.110.6.

Acknowledged.

(3) Phase II approval shall follow the site development plan process. If the tract or tracts of land are granted floating zone approval they may not be further subdivided.

Acknowledged.

(E) Application.

(1) The application submitted must include 15 copies of each of the following:

(a) A map of the applicant's entire holding at a convenient scale.

Enclosed.

(b) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property.

Enclosed.

(c) An environmental features map of the property showing the existing surface of the land and the location of soil types and natural features such as streams, rock outcrops and wooded areas, at a minimum of 5 foot contour intervals, unless otherwise specified.

Enclosed.

(d) A generalized overall land use plan at 1" = 100 scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.

Enclosed.

(e) A concept plan at 1" = 50 scale showing; the location of the proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, loading areas and access and egress drives.

Enclosed.

(f) A phasing schedule describing the timing and sequence of development.

Enclosed.

(g) A "glint and glare" analysis of the proposed solar facility identifying the angle and height of reflection throughout the year, and the impacts upon nearby residences, roadways, and airports.

Enclosed.

(2) The applicant shall submit a justification statement addressing each of the approval criteria as well as the following:

(a) Relationship of uses within the project and with existing uses in the neighborhood;

Existing uses in the neighborhood are primary single-family homes and agricultural. As discussed further in this paragraph, given that the height of the proposed use and the noise generated by the proposed use is comparable to the those characteristics of a single-family home, the use will be in harmony with existing uses in the neighborhood. The project will consist of a series of photo-voltaic modules, a racking system, and DC to AC power inverters. The maximum height of the array will be approximately 12 feet, comparable to a 1-story home, and a vegetative buffer of trees and shrubs will be installed and maintained to reduce the visibility of the project. The only noise generated by the project will be generated by the inverters. The level of noise is comparable to a low grade air conditioner.

(b) The timing of the construction of the project as it relates to the provision of facilities and services;

Construction will not require any county facilities or services. Construction will last approximately 26 weeks. A phasing schedule outlining all construction activities has been enclosed.

(c) A statement identifying all incidental accessory uses and activities associated with the primary use of the property including hours of operation, frequency of activity, and average number in attendance.

The solar facility will be used to generate electricity and distribute that electricity to the local power grid. The facility will be an unmanned operation, monitored remotely. Remote monitoring systems will notify the system owner when maintenance is required, and maintenance will happen as needed, typically with a crew of 2 – 5 technicians. In addition to maintenance of the solar facility, the project owner will maintain the landscaping buffer. The primary maintenance activity will be watering the trees, shrubs and vegetation, which will be accomplished via water trucks..