

Cloverly Civic Association
PO Box 233
Spencerville, MD 20868

August 23, 2020

Chair Casey Anderson
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Petition to Reconsider Resolution MCPB No. 20-069 Cedar Ridge Community Solar August 13, 2020.

The Cloverly Civic Association petitions the Planning Board to reconsider and correcting mistakes and inadvertences in the resolution. The issues involve Historic Presentation Commission (HPC) recommendations for the Historic property located on the Cedar Ridge Solar property, namely the *Spencer-Carr House - #15/55*; use of pollinator-friendly groundcover, and the use the term applicant and successors.

Historic Property Screening

The Cloverly Civic community wants Spencer-Carr House to be properly screened and protected from the Solar project. The Historic Preservation section on page 8 of the resolution refers to a letter dated April 22, 2020. We assume that this letter refers to the Attachment "C" of the Cedar Ridge Community Solar planning staff report for the July 9, 2020 hearing. Attachment "C" is a Preliminary HPC staff report for a Historic Area Work Permit (HAWP) for Cedar Ridge Solar Array, not an approved HPC recommendation. After the Planning Board meeting of July 9, 2020, the actual HPC approval meeting occurred on July 29, 2020, with a new HPC staffing report. The HPC approved recommendations need to be reflected explicitly in the Cedar Ridge Solar resolution, not by reference. We assume that the screening requirements take into consideration the raised height of the panels from 10 feet to 12 feet and the correct fence height of 7 feet.

Pollinator-friendly Ground Cover

In the initial community meeting, the applicant agreed to use pollinator-friendly ground cover consisting solely of plants native to this ecosystem under the solar collectors. The solar project will provide a solar sited pollinator habitat, a "pollinator-friendly groundcover, which should be good for our bees and other wildlife". The applicant agreed to using pollinator-friendly groundcovers in the hearing but using pollinator-friendly groundcovers consisting solely of plants native to this ecosystem needs to be specified in the resolution. When requiring pollinator-friendly groundcovers there is a precedent for specifying this in the resolution. For example, a reference to pollinators is included in the Fieldcrest Community Solar Resolution, as follows:

"In addition, the Applicant has agreed to replace the existing fescue ground cover under the solar panels with an upland pollinator meadow seed mix which, in time, will provide habitat for local pollinator species. The FFCP meets the requirements of the Environmental Guidelines for sensitive area protection." (MCPB No. 20-057 Site Plan No. 820200110 dated August 10, 2020, on page 15, section 2) *SPA Environmental Buffer Protection*)

Replace "Applicant" with "Applicant and Successors"

Also, in the community meeting, the applicant indicated that they may be replaced by several different companies in the development process of the solar project. This was brought up in our letter to the Planning Board and discussed in the July 9 hearing. The result is that applicants and successors are responsible for the responsibilities of the project. The term "applicant" should be replaced by "applicant and successors".

Thank you for your consideration of this petition to reconsider. For the Cloverly Civic Association,

Quentin Remein, President
201 Bryants Nursery Road, Silver Spring, MD 20905, Phone 301 421-1152



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 20-069
Site Plan No. 820200040
Cedar Ridge Community Solar
Date of Hearing: July 9, 2020

AUG 13 2020

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on December 9th, 2019, Turning Point Energy ("Applicant") filed an application for approval of a site plan to construct a solar collection system on a portion of Parcel A on Record Plat 20746, consisting of 62.71 acres of land, zoned RE-1 and RC in the Upper Paint Branch Overlay zone, located on the north side of Spencerville Road (MD 198), at the intersection of MD 198 and Peach Orchard Road ("Subject Property"), in the Rural East Policy Area and 1997 *Cloverly Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820200040, Cedar Ridge Community Solar ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 26, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 9, 2020, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Fani-Gonzalez, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820200040 for the construction of a Solar Collection System on the Subject Property, subject to the following conditions:¹

1. Land Use

- a. The Site Plan is limited to a Solar Collection System designed to produce no more than 2 megawatts (AC) of electricity, or the maximum electric generation level specified in Section 59.3.7.2 of the Zoning Ordinance.
- b. The Solar Collection System must be removed by the Applicant within 12 months of the date when the use is discontinued or abandoned by the system owner or operator, or upon termination of the useful life of the system. The Solar Collection System will be presumed to be discontinued or abandoned if no electricity is generated by the system for a period of 12 continuous months.

2. Solar Panel Design and Height

- a) The solar panels are limited to a maximum height of 12 feet, as measured from the finished grade to the top of the panel.
- b) The Applicant must install only solar thermal or photovoltaic panels.
- c) The Applicant must install solar panels with textured glass or an anti-reflective coating.
- d) The Applicant must install a 7-foot-tall fence (without barbed wire) around the solar arrays, as shown on the Certified Site Plan.

Environment

3. Forest Conservation & Tree Save

The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan Amendment ("FFCP") No. 820200040, approved as part of this Site Plan, including:

- a) Prior to the start of any demolition, clearing, grading or construction for this Application, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- b) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- c) The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- d) Prior to approval of the Certified Site Plan, the Applicant must revise the FFCP to address staff comments dated May 18, 2020.

4. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its Stormwater Management Concept letter dated September 4, 2019 and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Site Plan approval.

5. Patuxent River Watershed Primary Management Area

The Applicant must comply with the Patuxent Management Area ("PMA") requirements as stated in the Environmental Guidelines including:

- a) Prior to the start of any clearing, grading or demolition on the Subject Property, the owner of the Subject Property must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 10% of the Subject Property within the PMA and as shown on the Impervious Surface Plan submitted with the certified plan set. The agreement must be in a form approved by the M-NCPPC Office of General Counsel and recorded by deed in the Montgomery County Office of Land Records.
- b) Prior to certification of the Site Plan, the Applicant must revise the Impervious Surface Plan to address staff comments dated May 18, 2020.
- c) Impervious surfaces are limited to no more than 10.0% of the Subject Property within the Patuxent River Watershed Primary Management Area as shown on the Impervious Surface Plan submitted with the Final Water Quality Plan, and as part of the Certified Site Plan.

Transportation & Circulation/ Adequate Public Facilities (APF)

6. Validity

The Adequate Public Facility Review ("APF") will remain valid for sixty (60) months from the date of mailing of the Planning Board Resolution for the Site Plan.

7. Fire Department Access and Water Supply

The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated June 6, 2020, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

8. Historic Preservation

The Planning Board has reviewed and accepts the recommendations of the Historic Preservation Commission ("HPC") in its letter dated April 22, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter.

9. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit or sediment control permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, fences, underground electrical utilities and associated improvements of development. The surety must be posted before issuance of any building permit or sediment control permit for development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

10. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

11. Certified Site Plan

Before approval of the Certified Site Plan, the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval letter, development program, and Site Plan resolution (and other applicable resolutions) on the approval or cover sheet(s).
- b) Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c) Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d) Modify data table to reflect development standards approved by the Planning Board.
- e) Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Cedar Ridge Community Solar, Site Plan No. 820200040 and Final Forest Conservation Plan Amendment, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The development satisfies any previous approval that applies to the site.*

The Site Plan satisfies the conditions of Preliminary Plan No. 119970530 and the associated Water Quality Plan. The Preliminary Plan and Water Quality Plan for the Cedar Ridge Community Church, required the Applicant to enter in an agreement with the Planning Board to limit impervious surfaces to no more than 10 percent on the portion of the Subject Property in the Paint Branch Special Protection and no more than 10 percent on the portion within the Patuxent Primary Management Area. As discussed on page 10 of this Resolution, currently 10.3% imperviousness exists within the Paint Branch SPA. The Applicant is removing 0.04 acres (1,724.40 sq. ft.) of imperviousness to reduce the overall impervious area within the UPB SPA to 10% which satisfies the conditions of approval. No new impervious surfaces are being added within the UPB SPA with this Application.

Preliminary Plan No. 119970530 also limited development to a house of worship and child day-care/pre-school for a maximum of 53 children. This Site Plan does not include changes to the existing church or school that occupy the Subject Property.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

This section is not applicable as there are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Site's zoning classification on October 29, 2014, was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Use Standards

Division 4.3.4. Rural Cluster Zone (RC)

Use and Development Standards

This Site Plan does not include any improvements in the portion of the Subject Property zoned RE-1 and in the Upper Paint Branch Overlay Zone. The Site is approximately 8.62 acres and zoned RC. A Solar Collection System use is allowed as a limited use in the RC zone, subject to the requirements of Section 59.3.7.2.B.2. The following table, Table 1, shows the Application's conformance to the development standards of the zone.

Table 1 – RC Zone, Standard Method Development Standards

Development Standard	Permitted/Required	Approved
Min. Tract Area	5 AC	No new lots are proposed as part of this Application. See Limited Use

		Standards
Maximum Density	1 DU/ 5 AC	N/A
Minimum Building Setbacks	No habitable buildings are proposed.	See Limited Use Standards
Front	See Limited Use	
Side	Standards	
Rear		
Maximum Building Coverage	10%	N/A
Parking Spaces	0	0

Use Standards 59.3.7.2 – Solar Collection System

Solar Collection System is defined as “an arrangement of panels or other solar energy devices that provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating. A Solar Collection System includes freestanding or mounted devices”.

B. Use Standards

Where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:

2. In Rural Residential, Residential, Commercial/Residential, Employment, and Industrial zones, where a Solar Collection System is allowed as a limited use, and must satisfy the following standards:

Table 2 – Solar Collection System Limited Use Standards

Required	Approved
a. Site plan approval is required under Section 7.3.4.	The Application meets this requirement.
b. The site must be a minimum of 3 acres in size.	The Site Plan area is approximately 8.62 acres in size.
c. The system may produce a maximum of 2 megawatts (AC).	As conditioned, the system must produce no more than 2 megawatts.
d. All structures must be: <ol style="list-style-type: none"> i. 20 feet in height or less; ii. located at least 50 feet from any property line; and 	No new buildings or structures are proposed on the Site. The Solar Components are not taller than 12 feet and located a minimum of 50

iii. surrounded by a minimum 6-foot-tall fence.	feet from any property line. The Applicant is providing a 7-foot-tall chain-link fence around each pod of Solar modules. Typically, the fencing around solar fields includes an angle arm mounted at the top with barbed wire, however, the Applicant has agreed to forgo barbed wire in this case to enhance compatibility and improve the facility aesthetically.
e. If a structure for a Solar Collection System is located in an area visible to an abutting residential use or a road: i. only solar thermal or photovoltaic panels or shingles may be used; ii. the panels or shingles must use textured glass or an anti-reflective coating; and iii. screening that satisfies Section 59.6.5.3.C.8 (Option A) on the sides of the facility visible from the residential use or road is required.	As conditioned, the Applicant will install only solar thermal or photovoltaic panels and use panels or shingles with textured glass or an anti-reflective coating. As discussed on page 9 of this Resolution, screening is being provided according to Section 59.6.5.3.C.8 (Option A).
f. The Solar Collection System must be removed within 12 months of the date when the use is discontinued or abandoned by the system owner or operator, or upon termination of the useful life of the system. The Solar Collection System will be presumed to be discontinued or abandoned if no electricity is generated by the system for a period of 12 continuous months.	As conditioned, the Applicant is responsible for removing the Solar Collection System within 12 months if the use is discontinued or abandoned by the operator.
g. A system designed to produce more than 2 megawatts (AC) may be allowed as a public utility use under Section 3.6.7.E.	This standard does not apply to this Application.

b. General Requirements

i. *Site Access*

The Site is accessed from an existing signalized intersection at Spencerville Road via the existing driveway that serves the church. The Applicant has acquired an access easement that coincides with the driveway which is adequate for access to the Site without interfering with the existing uses on-site.

ii. *Parking, Queuing, and Loading*

Parking, queuing and loading spaces are not required for the use, with the exception of fire access improvements and driveways needed to access and maintain the electrical equipment.

iii. *Open Space and Recreation*

Open Space and Recreation are not required as part of this Application.

iv. *General Landscaping and Outdoor Lighting*

Landscaping is not required as part of this Application, except for screening, which is discussed below. The Site Plan meets the standards for the provision of landscaping as required by Division 6.4. Except for screening, the only landscaping provided as part of this Site Plan is outside of the fence (south), where the Applicant is installing a 20' (twenty-foot) vegetative screen to benefit the existing church. The optional screening is not required to comply with Chapter 59 but is being proffered by the Applicant as part of an agreement with the church. The screening will be made up of a variety of shrubs, evergreen trees, and canopy trees which will help soften the view of the solar array from the existing church.

No lighting is being provided as part of this Application. Generally lighting is reviewed for pedestrian and vehicular safety, adequacy of illumination (proper coverage) and comparability (light pollution/spillage). However, due to the nature of solar collection system as a primary use on the Site, lighting is not required or necessary. Any maintenance requiring illumination can be accommodated on a temporary (mobile) basis or maintenance can be accommodated during the daytime. In this case, not to provide lighting on-site furthers the compatibility with the adjacent

residential properties, eliminating the potential for light spillage and glare that could adversely affect the existing residences.

v. *Screening*

Solar Collection System is a limited use in the RC zone, and one of the limited use standards requires perimeter screening under Section 59.6.5.3.C.8, Option A, where the solar panels are visible from existing residential development or roads. With the approved screening the solar panels will not be visible from any of the existing uses on the abutting properties. While not a residence, screening according to Option A has been provided between the existing school to the east and the solar array. The existing Category I Conservation Easement (230 feet wide min.) west of the panels provides a buffer between the panels and the landscape contractor business and Optional screening provided by the Applicant provides screening between the panels and existing church, as well as the picnic area in the rear (north) of the Subject Property.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

The Site Plan meets the requirements of Chapter 19, Water Resource Protection, Sediment Control and Stormwater Management.

Upper Paint Branch SPA and Overlay Zone

The Upper Paint Branch ("UPB") SPA and Overlay Zone has a current specific numerical limit of 8% on impervious surfaces. However, at the time of approval of the Preliminary Plan and Water Quality Plan for the Cedar Ridge Community Church, Preliminary Plan No. 119970530, the impervious surface limit for the UPB SPA was set at 10%. This 10% limit is applied to this Application since no new construction of impervious surfaces is proposed within the UPB SPA. All construction associated with the installation of the solar panels is outside of the UPB SPA. If any new construction of new impervious surfaces were proposed within the SPA, then the current impervious surface limit of 8% would be applied.

The Applicant has demonstrated that this Site Plan Application is in compliance with the impervious surface restrictions of the UPB SPA Overlay Zone by submitting an Impervious Surface Plan dated May 6, 2020 and summarized in Table 3. During the review and approval of the original Preliminary Plan, Plan No. 119970530, the Cedar Ridge Community Church had contemplated the construction of new church outbuildings, a parking lot, access drives, a bikeway and widening of Spencerville Road. These new impervious surfaces combined with the existing historic buildings on the Subject Property resulted in an impervious surface of 9.4% for the church construction. Over the years, the church had added a small amount of impervious surface to the approved parking lot which increased the impervious surface to 10.3%. The current Applicant is proposing to remove 0.04 acres (1,724.40 sq. ft.) of this imperviousness to reduce the overall impervious area within the UPB SPA to 10%. No new impervious surfaces within the Upper Paint Branch SPA are proposed with this Application.

Table 3 – Impervious Surfaces Calculations in UPB SPA

Net Tract Area in UPB SPA	12.30 acres (535,826.14 sq. ft.)
Existing Impervious Surface in UPB SPA	1.23 acres (53,578.80 sq. ft.)
Impervious Surfaces removed	0.04 acres (1,724.40 sq. ft.)
Net Impervious Surface in UPB SPA	1.19 acres (51,836.40 sq. ft.)
Percent Imperviousness	10%

Patuxent River Watershed Primary Management Area (“PMA”)

As outlined above, 12.30 acres of the Subject Property lies within the Upper Paint Branch Overlay Zone. The remaining 50.90 acres of the property lies within the PMA which has a 10.0% impervious cap within the Transition Areas of the PMA as outlined on page 50 of the Environmental Guidelines, *“Overall imperviousness within the transition area of each new project development site should not exceed 10 percent.”* The transition area is defined as *“The land remaining in the PMA that does not fall into the designated stream buffers will be managed as a transition area.”* The Transition Area on the Subject Property is approximately 40.99 acres of the total 50.90 acres within the PMA.

The originally approved Preliminary Plan showed an impervious surface amount of 10.0% within the Transition Area of the PMA. This impervious surface was comprised of a new church, Phase II and III buildings, Phase II

and Phase III parking lots, access drives and sidewalks accounting for a total of 4.4 acres of impervious surface. This resulted in the approval of an overall impervious surface amount of 10% for the Cedar Ridge Church. The Church did not build out to the approved limits of 10% imperviousness. What was actually constructed resulted in an impervious surface amount of approximately 2.31 acres or 5.7% as shown in the Impervious Surface Plan dated May 6, 2020 submitted with this Application and verified with current aerial photographs and field investigations.

The current Application proposes increases of impervious surfaces amount of approximately 0.15 acres. These impervious surfaces are comprised of the one emergency access road, concrete mounting pad for the electrical equipment pads, a 20-ft X 60-ft Montgomery County Fire and Rescue Service ("MCFRS") apparatus operational pad, concrete footers for the security fence posts and a picnic area as shown on the Impervious Surface Plan dated May 6, 2020. The MCFRS apparatus operation pad and small shed was inadvertently left off of the Impervious Surface Plan dated May 6, 2020, but as conditioned, will be shown on the Certified Site Plan and the calculations in Table 3 account for the additional imperviousness. There were also several other minor comments pertaining to the imperviousness within the PMA. These comments will be addressed prior to submittal of the Certified Site Plan. The total impervious surface amounts are summarized in Table 4. This results in an overall impervious surface amount of approximately 6.17%. The solar panels themselves are not considered impervious under Maryland State law. In addition, the mounting posts/piles for the solar panels are driven into the ground and do not require concrete footers.

Table 4 – Impervious Surfaces Calculations in PMA

Net Tract Area in PMA	50.41 acres (2,195,859.60 sq. ft.)
Net Area of Stream Buffers in PMA	9.91 acres (431,679.60 sq. ft.)
Net Transition Area in PMA	40.50 acres (1,764,180.00 sq. ft.)
Total Amount of Existing and Proposed Impervious Surface in Transition Area	2.50 acres (108,9000.00 sq. ft.)
Percent Imperviousness	6.17%

The Site Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Section on September 4, 2019. The Application will meet stormwater management goals through via non-rooftop disconnects and rain gardens.

b. Chapter 22A, Forest Conservation

The Natural Resources Inventory/Forest Stand Delineation ("NRI/FSD") #419960080 for the Subject Property was approved on August 3, 1995. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is located within two watersheds. The front 12.30 acres of the site are located within the Paint Branch watershed a Use Class III-P stream. This area of the Subject Property is also in the Upper Paint Branch SPA and Upper Paint Branch Overlay Zone.

The remaining 50.90 acres of the Subject Property are located within the Lower Patuxent River watershed, a Use Class I-P stream, and is within the Patuxent River Watershed Primary Management Area as defined in the Environmental Guidelines. There are three streams located on this portion of the Subject Property and one stream located just off the Subject Property. One stream flows through a small portion of the Subject Property on the western side. Two streams are located in the northern portion of the Subject Property and flow to the north into a stream that is located just off the northern property line. Each of these streams has a 100-foot stream buffer on each side of the stream as specified in the Environmental Guidelines resulting in 9.91 acres of stream buffer.

Forest Conservation Plan

A Forest Conservation Plan was approved for the Subject Property on January 29, 1998 for the construction of a church, access drives, parking and associated outbuildings. This Application and amendment to the Final Forest Conservation Plan does not alter the church buildings, access or parking, but is only for the installation of the Solar Collection System.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by Chapter 22A, an FFCP was submitted with the project application. The total net tract area for forest conservation purposes is 61.80 acres which includes the Subject Property of 63.20 acres and a deduction of 1.40 acres for floodplains. The Subject Property is zoned RE-1 and the Land Use Category is classified as Institutional Development Area ("IDA") as specified in the Trees Technical Manual and Section 22A-3 of the Forest Conservation Law. The Subject Property contains 16.10 acres of forest. The Applicant proposes to remove 0.00 acres of forest. This results in a total reforestation requirement of 0.00 acres. The environmental buffers and retained forest have been placed into

Category I Conservation Easements. All FFCP requirements have been met by the Cedar Ridge Community Church under plan no. 119970530.

The Final Forest Conservation Plan Amendment meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

This finding does not apply based on the proposed use.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Subject Property is within the area of the 1997 *Cloverly Master Plan*. The community map of the Master Plan (p. 11) shows the Subject Property to be in two of the Master Plan's defined communities: the part zoned RC is within the "Agricultural Wedge" and the part zoned RE-1 is in the "Residential Wedge." The entire solar project is within the Agricultural Wedge except for minor land disturbing activities in the Residential Wedge to install an underground electrical line to the solar array.

The Master Plan's vision as it relates to the Subject Property is to protect watersheds and provide public and private open space areas "for recreation and public use as well as conservation areas where public use is limited" (p. 13). To protect the Patuxent River watershed, the Master Plan limits development to relatively low densities and recommends additional parkland appropriate to protect the watersheds.

The objective within the Agricultural Wedge is to:

Maintain the existing mix of low-density residential neighborhoods and open space that preserves the valleys of Patuxent River tributaries, creates this community's rural character and keeps the built and natural environments in balance. (p. 20)

The Master Plan recommended retaining the RC zone for the part of the Subject Property in the Agricultural Wedge to meet this objective.

The objective within the Residential Wedge is to:

Retain land use and environmental policies that minimize impacts on the upper Northwest Branch and upper Paint Branch watersheds and underscore the large-lot character of this community as now-vacant properties develop. (p. 22)

To support this objective, the Master Plan recommended retaining the existing RE-1 zone for the part of the Subject Property in the Residential Wedge.

The Master Plan did not make any specific recommendations for the Subject Property, but the Proposed Land Use map (p. 19) shows a recommendation for single-family residential uses on most of the Subject Property, including the parts containing the church and the Solar Collection System. This map shows the northern part of the Subject Property as "Park/Open Space." Indeed, most of the northern part of the Subject Property is included in a Category I Forest Conservation Easement that was a requirement of the earlier Preliminary Plan for the Subject Property. The solar project will not impact this part of the Subject Property.

As can be seen from the Master Plan vision and objectives above, low-density development, the provision of open space areas and protection of the natural environment are its focus. Although the proposed use is not for a single-family residence per the Proposed Land Use map, this recommendation relates more to the density of development than the type of development. The Subject Property is already developed with a single use, a church and the solar project is accessory to this use and does not increase the density.

The only recommendations the Master Plan makes regarding this Subject Property other than those regarding the environment are to retain the existing low-density zones on the Subject Property. Because the Application does not propose additional density, the Site Plan substantially conforms with these recommendations. The environmental recommendations of the Master Plan will be discussed in a separate section of this report.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

This Application does not propose occupancy of the Site and therefore requires neither water supply nor wastewater disposal systems.

Transportation

Access to the Subject Property will occur via an existing driveway to be shared with the Cedar Ridge Community Church from Spencerville Road (MD 108). The Applicant provided a Transportation Statement to explain the solar operation will be unmanned, with trips to the Subject Property made only infrequently for maintenance; there be no net increase in trips in the AM or PM peak periods and the Application is exempt from additional LATR review. Similarly, there will be no circulation internal to the Subject Property as access will be infrequent; all area not covered by solar panel footings is to remain unpaved natural surface. An access easement will be provided to formalize movement to and from the solar field using the church driveway. Circulation throughout the church property will continue to be adequate and the addition of infrequent maintenance will have minimal impact. The Subject Property has no frontage along a public road and no improvements are requested.

The Site Plan has been reviewed by the MCDPS, Fire Access and Water Supply Sections, which determined that the Subject Property has adequate access for fire and rescue vehicles as shown on their approved Fire Department Access Plan dated June 6, 2020.

Transportation access is safe and adequate for the proposed use. This Application is consistent with the 2018 *Master Plan of Highways and Transitways*, the 2018 *Bicycle Master Plan* and the 1997 *Cloverly Master Plan*.

9. *The development is compatible with the character of the residential neighborhood.*

The Site is in the RC zone, a Residential zone and while solar is not a residential use, it is an allowed use in the zone. With the unique location of the Site, the provided setbacks, existing forest and screening, and Site layout, as conditioned the Site Plan is compatible with the character of the adjacent residential neighborhood.

The only residential development in proximity to the Site abuts the western Property line which will be substantially buffered, both by the existing forest conservation easement and the proposed 30-foot-wide landscape buffer. Additionally, lighting is not being provided on site because it is not required and is unnecessary given the proposed use. Since no lighting is provided, there is no possibility of light pollution/spillage onto the adjacent residential lots creating comparability issues. As conditioned, the development of the Site with solar is compatible with the adjacent residential neighborhood.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 13 2020 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Vice Chair Fani-González, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, July 23, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board