

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 22-113

JAN 06 2023

Site Plan No. 820220210

Chaberton Solar Santa Rosa

Date of Hearing: December 15, 2022

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 October 20, 2022, Chaberton Solar Santa Rosa, LLC (“Applicant”) filed an application for approval of a site plan to allow a solar collection system producing more than 120 percent of on-site energy on 10 acres of Rural Cluster (RC) zoned-land, located on Signal Tree Lane approximately 1,200 feet north of River Road, Parcel D of Record Plat No. 14198, commonly known as 13330 Signal Tree Lane (“Subject Property”), in the Darnestown Policy Area and 2002 Potomac Subregion Master Plan (“Master Plan”) area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. **820220210 Chaberton Solar Santa Rosa** (“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 December 2, 2022, providing its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on December 15, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Hill, seconded by Commissioner Presley, with a vote of 5-0; Chair Zyontz, Vice Chair Presley, Commissioners Branson, Hill and Piñero voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. **820220210** the construction of a solar collection system producing more than

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Approved as to

Legal Sufficiency: /s/ Matthew T. Mills

M-NCPPC Legal Department

120 percent of on-site energy use with an existing single-family residence to remain, subject to the following conditions:¹

Density, Height & Housing

1. Land Use

- a. The Site Plan is limited to a Solar Collection System producing a capacity of 1.75 megawatts of on-site electricity, as a limited use on the Subject Property.
- b. The existing single-family detached dwelling unit may remain.
- c. The Applicant must remove the Solar Collection System 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, and the Property must be returned to a natural state, with either its current grassed condition or native-pollinator vegetation. 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, and the Applicant does not provide notice to the Planning Board of intent to remedy the abandonment at least 30 days before the expiration of the 12-month period.

2. Height

The Solar Collection System is limited to a maximum height of (one) 1 foot for the solar panels and 8.5 feet for the accessory equipment, as illustrated on the Certified Site Plan.² Sensor antennas extending vertically from grade are limited to a maximum height of 14 feet.

Environment

3. Forest Conservation & Tree Save

- a) The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
- b) The Applicant must comply with all tree protection and tree save measures shown on the approved Preliminary/Final Forest Conservation Plan ("FCP"). Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
- c) The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FCP.

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.

² The structure measuring point is determined by the Department of Permitting Services

- d) Before the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:
- i. Record a Category I Conservation Easement over the area of stream valley buffer as specified on the approved FFCP. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed.
 - ii. Install permanent conservation easement signage along the perimeter of the conservation easement as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - iii. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
 - iv. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All proposed measures should be chosen with consideration of the proximity to the off-site stream. The use of herbicides should be avoided where possible.
 - v. Record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank within the Potomac Direct watershed to satisfy the reforestation requirement for a total of 2.01 acres of mitigation credit. The off-site requirement may be met by purchasing credits from a mitigation bank elsewhere in the County, subject to Staff approval, if forest mitigation bank credits are not available for purchase within the Potomac Direct watershed or by making a fee-in-lieu payment to M-NCPPC if mitigation credits are not available at any bank.
 - vi. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings on the Property, as shown on the approved FCP. The variance tree mitigation plantings must be a minimum of 3 caliper inches totaling at least 7.63 caliper inches, as shown

on the approved FCP. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

4. Stormwater Management

The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) Water Resources Section in its stormwater management concept letter dated July 27, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

Transportation & Circulation/Adequate Public Facilities (APF)

5. Transportation

The Planning Board has reviewed and accepts the recommendations of the DPS-Right-of-Way Section (“DPS-ROW”) in its memo dated October 11, 2022, and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in its memo, which DPS-ROW may amend if the amendments do not conflict with other conditions of Site Plan approval.

6. APF Validity

The Adequate Public Facilities Review (APF) will remain valid for five (5) years from the initiation date set forth in Section 50.4.3.J.5 of the County Code.

7. Fire and Rescue

The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated December 2, 2022, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations provided in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Site Plan

8. Site Plan Surety and Maintenance Agreement

Before issuance of any above grade building permit, sediment control permit, or Use and Occupancy Certificate, whichever comes first, 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 landscaping, screening, and fencing. The surety must be posted before issuance of any building permit of 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.

9. Development Program

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

10. 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, Approved Fire and Rescue Access Plan, development program, and Site Plan Resolution on the approval or cover sheet(s).
- b) Add the following notes:
 - i. "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
 - ii. "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."
 - iii. "The Applicant must schedule a preconstruction meeting (pre-con), preferably on-site, with staff from the Department of Permitting Services (DPS) responsible for Certified Site Plan conformance and compliance, upon approval of the Certified Site Plan (CSP). The pre-con must occur before any site development work commencement and before any work that is covered

by the site plan surety and maintenance agreement. The Applicant, along with their representatives, must attend the pre-con with DPS CSP Staff. A copy of the approved Certified Site Plan along with any subsequent amendments is required to be on-site at all times.”

- c) Modify data table to reflect development standards approved by the Planning Board.

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 Site Plan No. 820220210, 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 of its Staff as presented at the hearing and/or provided 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 Property is subject to Preliminary Plan No. 119821690, which was approved in 1983. The Project is consistent with the applicable conditions of approval.

- 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 Subject Property’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

The Property is 10 acres and zoned Rural Cluster (RC). A solar collection system is allowed as a limited use in the RC zone, subject to Section 59.3.7.2.B.1.b.ii. the data table below demonstrates the Project's conformance to the applicable use standards of the RC zone and limited use standards for a solar collection system.

Use Standard	Permitted/ Required	Approved
Solar Collection System Use Requirements (59.3.7.2.B.1.b.ii)		
Minimum Lot Area for Solar System	3 acres	10 acres
Maximum Produced Megawatts	2.0 megawatts	1.75 megawatts
Panel Type	Solar Thermal or Photovoltaic	Photovoltaic
Maximum Height of Solar System	20 feet	1 foot (solar panels) 8.5 feet (equipment)
Minimum Fence Height for Solar System	6 feet	7 feet
Minimum Setback of Solar System	50 feet (front) 50 feet (side) 50 feet (side) 50 feet (rear)	267 feet (front) 52 feet (side, north) 82 feet (side, south) 62 feet (rear)
Minimum Parking	0 required	0 provided

b. Development Standards

The Subject Property includes approximately 10 acres zoned Rural Cluster (RC) on the Subject Property. The Application satisfies the applicable development standards as shown in the following data table:

Development Standard	Permitted/ Required	Approved
RC Zone Requirements (59.4.3.4.B.1)		
Minimum Lot Width at Front Building Line	300 feet	337 feet

Development Standard	Permitted/ Required	Approved
Minimum Lot Width at Front Lot Line	300 feet	323 feet
Minimum Lot Area for Zone	5 acres	10 acres
Maximum Density	1 unit per 5 acres	1 unit per 10 acres
Maximum Lot Coverage	10%	1.6% ^{3, 4}
Principal Building (Existing Residence)		
Minimum Front Setback	50 feet	96 feet
Minimum Side Setback	20 feet	99 feet (north side setback) 130 feet (south side setback)
Minimum Rear Setback	35 feet	855 feet
Maximum Height	50 feet	40 feet

c. General Requirements

i. *Site Access*

Per Chapter 49-33(e)(A), frontage improvements are not required for sidewalks, master-planned bikeways, and other miscellaneous façade enhancements, because the Property is greater than 25,000 square feet for a single-family residence, and it is located in a rural zone.

As shown on the Site Plan, ingress and egress are provided by one existing reconfigured driveway from Signal Tree Lane. The new driveway entrance will consist of a widened apron and with a minimum width of 15 feet and a maximum width of 20 feet. The reconfigured driveway will serve both the existing house and the

³ Pursuant to 59.4.1.7.B.4.a, coverage is defined as the area of a lot or site occupied by a building, including an accessory building, structured parking, or other roofed structure such as a porch, patio, deck, or steps. Therefore, solar panels are not included in the calculation of maximum lot coverage.

⁴ By Maryland state statute, for the purposes of issuing a permit related to zoning or construction, all solar panels are considered pervious (MD Land Use Code 4-210, 2017).

Project. The primary purpose of the driveway reconfiguration is to provide emergency vehicle access to the Project

ii. *Parking, Queuing, and Loading*

Division 6.2 does not require minimum or maximum parking spaces, queuing, or loading spaces for a solar collection system.

iii. *Open Space and Recreation*

Division 6.3 does not require open space or recreation for a solar collection system.

iv. *General Landscaping and Outdoor Lighting*

Except for screening per Section 59.6.5.3.C.8, landscaping is not required as part of this Project. As discussed below, the existing and proposed screening provided by the Project is appropriate for the surrounding residential area as it sufficiently provides a buffer between new and existing uses.

Due to the operational nature of a solar collection system, outdoor lighting is not required or necessary. Any maintenance requiring illumination may be accommodated on a temporary (mobile) basis or during daytime hours. In this case, not providing additional outdoor lighting furthers compatibility with the adjacent residential properties by eliminating the potential for light spillage and glare that could adversely affect the existing residences

v. *Screening*

The Applicant requested approval of an alternative method of compliance in the screening requirements. As described in the section below, with the proposed alternative method of compliance, the Project satisfies the screening requirements of Division 6.5.

Alternative Method of Compliance

The Planning Board approved an alternative method of compliance of the screening requirement and determined there is a unique site, a use characteristic, or a development constraint associated with the proposal as follows:

Direct sunshine provides the optimal conditions for the solar array system to produce the energy it was intended to produce. In this case, the proposed Project could generate enough energy to power the annual electricity needs of 400 homes through the proposed community solar program. In order to achieve this goal, maximum direct sunshine, free of shade and shadows is necessary. This contrasts with most allowable land uses in the RC zone that do not require a reliable supply of sunshine to operate. Therefore, Staff concludes that a unique use characteristic exists (sunshine required to produce solar energy) with the proposed Project.

The Planning Board determined that the unique site, use characteristic, or development constraint precludes safe or efficient development under the screening requirement, and the alternative design will:

Satisfy the intent of the applicable Division 6.5 (Screening Requirements);

The intent of Division 6.5 is to ensure appropriate screening between different building types and uses. With this Project, the purpose is to screen the solar array panels and any accessory equipment from the surrounding residential uses. The Applicant proposed to utilize and supplement the existing mature vegetation and substitute two evergreen trees for each required canopy tree. Evergreen trees are frequently used for screening and provide year-round visual buffer from off-site view. Additionally, the natural grade of the Property screens the Project of views from Signal Tree Lane. All of which meet the intent of Division 6.5 Screening Requirements.

Modify the applicable functional results or performance standards the minimal amount necessary to accommodate the constraints;

The applicable screening requirements require canopy or understory/evergreen trees planted in the landscaped area. Canopy trees on the south side of the system would significantly interfere with the ability to collect solar power by casting shade and shadows on the solar array system. This would diminish the overall effectiveness of the solar system. The Applicant proposed to substitute two evergreen trees for each required canopy tree.

Additionally, the Applicant proposed to utilize and supplement the existing mature vegetation on the west and north property lines to achieve adequate screening. Given existing mature landscaping near the front (east property line), the elevated topography along the roadway, and that the solar array system is less than one foot in height, off-site views from Signal Tree Lane are de minimis and would have virtually no impact. No additional screening is proposed in the front yard area (east property line).

Provide necessary mitigation alleviating any adverse impacts;

No additional mitigation is necessary to alleviate any adverse impact because, as described above, the Project will provide adequate plantings to effectively screen the Project from off-site views.

And be in the public interest.

Granting the alternative method of compliance request is not contrary to the public interest. The proposed alternative method will satisfy the intent of Division 6.5 by providing adequate screening of the Project from off-site views. Further, allowing the Project to operate as efficiently as possible will generate the maximum amount of renewable solar energy for this facility. As such, this Project is in the public interest because it will help advance Montgomery's County goals to reduce greenhouse gas emissions by 80 percent by 2027 and 100 percent by 2035.⁵

Due to the low-profile characteristic of the ground-mounted solar collection system, the existing mature vegetation, topography, and the proposed plantings and supplemental plantings, Staff concludes the proposed alternative method of compliance will satisfy the intent of Section 59.6.5.3.C.8 (Option A), screening requirements

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

⁵ Office of Energy and Sustainability, Montgomery County, Maryland. About Energy and Climate.
<https://www.montgomerycountymd.gov/dgs-ces/EnergyClimate.html>

- a. Chapter 19, Erosion, Sediment Control, and Stormwater Management
A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on July 27, 2022. The plan will meet stormwater management requirements using micro-bioretenion facilities, bio-swale facilities, and porous pavement.
- b. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The tract area for forest conservation purposes includes the 10-acre Subject Property plus 0.04 acres of offsite disturbance associated with this Application, for a total net tract area of 10.04 acres. There is no forest cover on the Subject Property, and this generates an afforestation requirement of 2.01 acres. The Applicant proposed to meet this afforestation requirement by purchasing credits from a forest mitigation bank or, if a bank is not available, then paying a fee-in-lieu into the Forest Conservation Fund. There is a small portion of stream valley buffer, 0.08 acres, located on the property in the northwest corner associated with an off-site stream. The 0.08-acre stream valley buffer will be placed into a Category I Conservation Easement. This area does have some tree cover, but since this area is less than 10,000 square feet it does not meet the definition of forest in the Forest Conservation Law and there is no adjacent off-site forest with which this area can be joined. As a result, afforestation of this small stream buffer is not required.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law identifies certain individual trees as a high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to one Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the variance. Due to the location of tree ST-6 on the south side of the solar array, leaving Tree ST-6 in place would shade portions of the solar array

and thereby reduce the effective power output of the array. In addition, leaving tree ST-6 in place with approximately 60 percent of its CRZ impacted may create a hazard tree situation with the potential of this tree falling on the solar array at some point in the future. Reconfiguring the solar array is not feasible given setback requirements, environmentally sensitive features of the property, and the need to maintain efficiency in the solar array layout to maximize energy production. Therefore, there is a sufficient unwarranted hardship to justify a variance request because the Applicant would otherwise be unable to develop this property in the manner that is proposed

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the specified tree is due to the development of the Property, location of the tree, and necessary site design requirements for a solar array. Due to the location of tree ST-6 on the south side of the solar array, leaving Tree ST-6 in place would tend to shade portions of the solar array and thereby reduce the effective power output of the array. In addition, leaving tree ST-6 in place with approximately 60 percent of its CRZ impacted may create a hazard tree situation with the potential of this tree falling on the solar array at some point in the future. Requests similar to this have been made (and granted) for previous solar array installation applications. As a result, the granting of this variance is not a special privilege that would be denied to other applicants.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and the proposed site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The protected trees requested for removal are not located in an environmental buffer or special protection area. This approval is conditioned on mitigation that approximates the form and function of trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The protected trees being impacted will remain to provide the same level of water quality protection as currently provided.

Mitigation for the variance is at a rate that approximates the form and function of the protected trees removed. The Board approved the replacement of protected trees at a ratio of approximately one inch caliper for every four inches removed. No mitigation is required for protected trees impacted but retained.

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

Parking, loading spaces, and open spaces are not required for a solar collection system. No new buildings are proposed as part of this Project. Adequate circulation is provided by the reconfigured driveway entrance and fire department access lane as shown on the Site Plan. Sidewalks are not required as a condition of this project as the property is within a rural zone, as indicated by the county Road Code. As specified in Section 49-33(e) of the County Code: [I]f a lot or lots front on a public road, the permittee must install sidewalks, master-planned bikeways, ramps, curbs, and gutters, except any sidewalk in front of a lot that is larger than 25,000 square feet for a single-family detached dwelling in a rural zone.

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.*

While there are no specific policy recommendations for the Property, the Master Plan provides general land use recommendations. Environmental sustainability is recommended as the most critical policy determinant in the Master Plan. Some of these objectives include maintaining a low-density residential “green

wedge,” encouraging an ecologically sensitive development, protecting significant environmental features, and retaining the area’s two-lane road system. The Project is consistent with these overarching objectives.

The Project consists of a solar collection system that has the capacity to power 400 homes with environmentally sustainable renewable energy. The Project is located on developed property and will not impact any significant environmental features, as indicated on the approved NRI. A portion of the Property that lies within a stream valley buffer will be protected by a Category 1 Conservation Easement. Since there are no persons employed on-site, operationally the Project will not impact the area’s road system or create any additional traffic. The Project is expected to generate approximately one vehicle trip per month for maintenance purposes. For these reasons, as conditioned the Project substantially conforms with the recommendations of the Master Plan

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.*

The Project consists of a solar collection system and will have no new habitable structures besides the existing single-family detached residence. Operationally, the Project is expected to generate approximately one vehicle trip per month for maintenance purposes only. Given the use will not generate 50 or more new person trips during peak hours, the Site is exempt from the requirement for a transportation impact study per the 2020-2024 Growth and Infrastructure Policy.

This Project does not propose any habitable structure or occupancy associated with the Project and, therefore, does not require a water supply or wastewater disposal system. The existing residence utilizes an on-site water well and septic system, which remains unchanged as part of this Application. For fire protection water supply, the Applicant proposed to provide an underground water storage tank near the north property line and driveway entrance. An adequate public school facility test is not required because the project does not include any new residential density

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

The Property is located in the Rural Cluster zone, a Rural Residential zone. While a solar energy system is not a residential use, it is an allowed limited use in the zone. The Project will comply with the required screening through the alternative method, which will ensure the solar array is effectively screened from off-site views. Furthermore, given the low-profile height of the solar arrays (less

than one foot in height) and the proposed screening, the Project will have no material impacts from Signal Tree Lane and virtually no visibility from neighboring properties. The well-established vegetation and additional landscaped plantings will ensure no adverse visual impacts to the character of the residential neighborhood. The Project will not provide any additional outdoor lighting. As such, there would be no glare or lighting spillover produced by the Project. Operationally, the Project will generate virtually no sound. As noted by the Applicant, the accessory equipment produces a sound that is similar to a refrigerator. This accessory equipment is located 355 feet from the nearest residential structure. As such, any noise produced would not be audible off-site due to distance and general ambient noise. The Project is expected to generate one vehicular trip per month for maintenance purposes.

Therefore, with the proposed setbacks, screening, and layout, and as conditioned, the Project is compatible with the character of the 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 JAN 06 2023 (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 the motion of Commissioner Branson, seconded by Commissioner Presley, with a vote of 5-0-; Chair Zyontz, Vice Chair Presley, and Commissioners Branson, Hill, and Piñero, voting in favor of the motion, at its regular meeting held on Thursday, December 22, 2022, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board

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