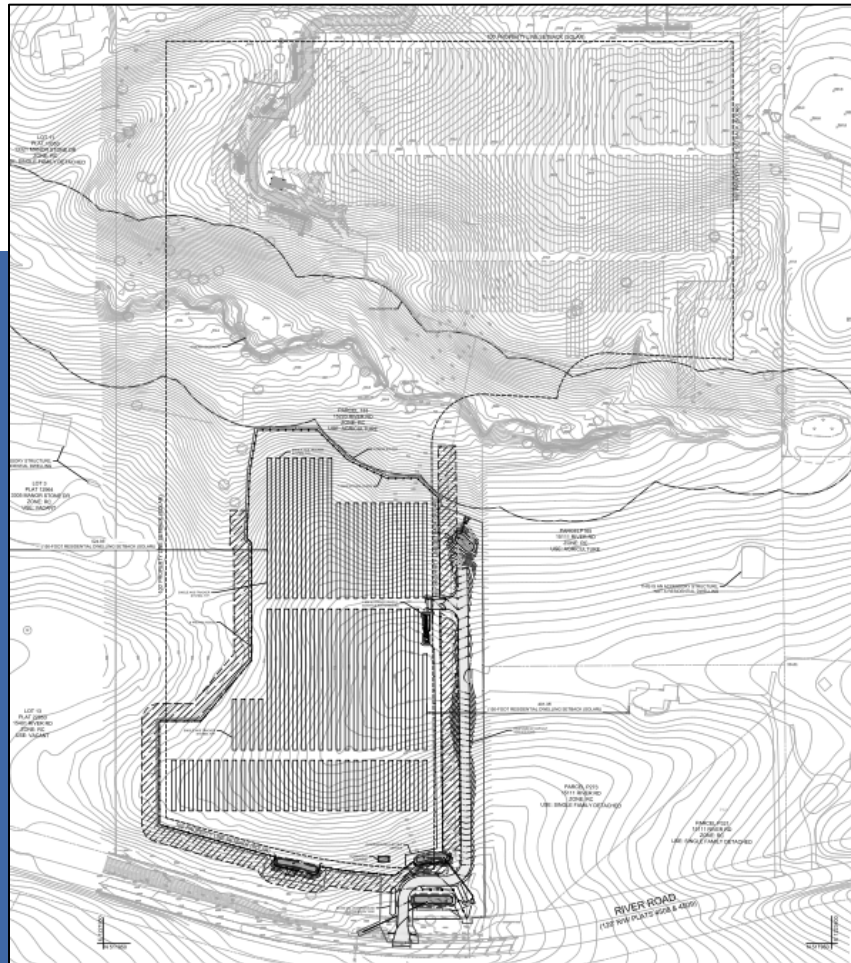


**CHABERTON SOLAR VICTORIA II LLC
MANDATORY REFERRAL NO. MR2026011 &
FOREST CONSERVATION PLAN NO. F20260280**



Description

Proposal to construct a 1.25-Megawatt solar array on 8.3 acres of land, within a 42-acre property, in the RC zone located at 15220 River Road in Potomac.

COMPLETED: 1/19/2026

PLANNING BOARD HEARING DATE: 1/29/2026

MCPB ITEM NO. 7

Planning Staff



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LOCATION/ADDRESS

On River Road 1,200' w of Signal Tree Lane;
15220 River Road, Potomac

MASTER PLAN

2002 Potomac Subregion Master Plan

ZONE

Rural Cluster (RC)

PROPERTY SIZE

42.09 acres

APPLICANT

Mike Doniger; Chaberton Solar Victoria II LLC

ACCEPTANCE DATE

December 4, 2025

REVIEW BASIS

Section 7-218 of the Public Utilities Article of the
Annotated Code of Maryland;

Section 20-301 of the Land Use Article of the
Annotated Code of Maryland; and

Chapter 22A of the Montgomery County Code.

Summary:

- Proposal to construct a ground-mounted, 1.25-megawatt community solar array facility on the southern portion of the Subject Property.
- Solar arrays are regulated under Maryland State Code, Public Utilities, Sec. 7-218, as amended, also known as the Renewable Energy Certainty Act (“RECA”), as solar energy generating stations.
- The Planning Board action on a Mandatory Referral is pursuant to Section 20-301 et seq. of the Land Use Article and the Uniform Standards for Mandatory Referral Review.
- Following completion of the Planning Board’s review, Chaberton must submit applications for required permits, including but not limited to stormwater management and sediment control to the Montgomery County Department of Permitting Services (“DPS”), which is responsible for determining whether Project Victoria II meets all site requirements under RECA subsection (f). Findings for these requirements are included in this Staff Report.
- This Application is on the southern portion of the Property, which is distinct from MR2026010 which is located on the northern portion of this same property.
- Forest Conservation Plan No. F20260280 covers the Chapter 22A Forest Conservation requirements for the entire Property.
- Staff recommends approval and transmittal of comments for Mandatory Referral MR2026011 and approval with conditions for Forest Conservation Plan F20260280.

Chaberton Solar Victoria II LLC 1
Mandatory Referral No. MR2026011 &
Forest Conservation Plan No. F20260280

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

MANDATORY REFERRAL NO. MR2026011

Staff recommends approval of Chaberton Solar Victoria II LLC, Mandatory Referral No MR2026011 and the transmittal of the following comments to the Applicant and the Montgomery County Department of Permitting Services (MCDPS).

1. The Applicant should conduct a viewshed analysis to assess the visual impact of the solar energy generation station on any adjacent preservation areas, rural legacy areas, priority preservation areas, public parks, scenic river or byway, designated heritage area, or historic structure or site listed on or eligible for the National Register of Historic Places or relevant county register of historic places.
2. To adhere to the required 90% survival threshold for plantings associated with the landscape buffer for the life of the solar energy generating station, as required by the Maryland Public Utilities Article § 7-218(f) – Siting Standards, the Applicant should execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA should cover care, including watering, for the required buffer/vegetative screening area on the perimeter of the project area.
3. In accordance with Public Utilities Article § 7-218(f)(5)(vi), the Applicant should submit financial surety for a landscaping bond for the first 5 years of the life of the solar energy generating station equal to 100% of the total landscaping cost with the county in which the solar energy generating station is located. The bond should be in a form approved by the M-NCPPC Office of the General Counsel.

FOREST CONSERVATION PLAN NO. F20260280

Staff recommends approval of the Forest Conservation Plan with Conditions, associated with Mandatory Referral Nos. MR2026010 & MR2026011 [the “Accompanying Plans”]. All site developments shown on the latest electronic version of the Forest Conservation Plan No F20260280, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

1. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for the development under the accompanying Mandatory Referral No. MR2026010, the Applicant must:
 - a. Record a Category I Conservation Easement over all areas of forest retention and environmental buffers as specified on the approved Final Forest Conservation Plan. The easement must specify that the applicant will be permitted to install and maintain an electrical line within the stream valley buffer as shown on the approved Final Forest Conservation Plan. 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.

- b. Install the permanent conservation easement fencing and signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c. 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, mitigation tree plantings, including variance tree mitigation plantings.
 - d. Submit a cost estimate for the FCP requirements, which may include variance mitigation trees, five years of maintenance including invasive species management controls, permanent easement fence, posts and signage, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as shown on the FCP. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.
 - e. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
2. 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 planting on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must total at least 16 caliper inches, as shown on the approved FCP. The mitigation plantings should be at least five (5) feet away from any property lines, structures, paving, stormwater management facilities, PIEs PUEs, ROWs, utility lines, and/or their associated easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
3. 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.
4. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
5. 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.
6. No disturbance other than directional boring associated with the electric line is allowed within the stream valley buffer.

7. Before Certification of the Final Forest Conservation Plan, the Applicant must:
 - a. Revise all planting shown as occurring within the Category I Conservation Easement to include only species native to the piedmont region of Maryland that are part of a natural occurring forest association.
 - b. Reduce the LOD within the stream valley buffer to reflect the directionally bored electric line only.
 - c. Enlarge the area of Category I Conservation Easement to cover the entire stream valley buffer.

SECTION 2: EXECUTIVE SUMMARY

The Subject Property for this Application is located at 15220 River Road and consists of 42.09 acres of land in the Rural Cluster (RC) zone. Within the Subject Property, the Applicant, Chaberton, has filed concurrent Mandatory Referral Applications for two separate community solar projects. This report discusses the proposal and required findings associated with Mandatory Referral Application MR2026011 for the Chaberton Solar Victoria II LLC project, located on the southern portion of the Subject Property and outlined in blue in Figure 1 below. Mandatory Referral Application MR2026010, for the Chaberton Solar Victoria LLC project, is addressed in a separate staff report and is located on the north portion of the Property. Because these projects occur on one shared Property, Forest Conservation Plan No. F20260280 covers the Chapter 22A Forest Conservation Law requirements for both projects within the entire 42-acre Property.



Figure 1 – Overall Property & Project Areas

SECTION 3: SITE DESCRIPTION

VICINITY

The Subject Property is a 42-acre undeveloped property located at 15220 River Road, about 1,200 feet west of Signal Tree Lane, in Potomac (“Subject Property” or “Property”).

The Property is zoned RC (Rural Cluster) as shown in Figure 2, Vicinity/Zoning Map. All adjacent and confronting properties are zoned RC and are developed with large-lot single-family residences or used for agriculture purposes. There is an existing solar array located just east of the Property, at 13300 Signal Tree Lane, which was recently approved via Site Plan Application No. 820220210 (Chaberton Solar Santa Rosa).

Directly across River Road is Callithea Farm Park, a County-owned public park with a series of equestrian trails on over 90 acres of land. The Property and surrounding area are located within the boundaries of the 2002 *Potomac Subregion Master Plan* and are subject to the policies and recommendations contained therein.

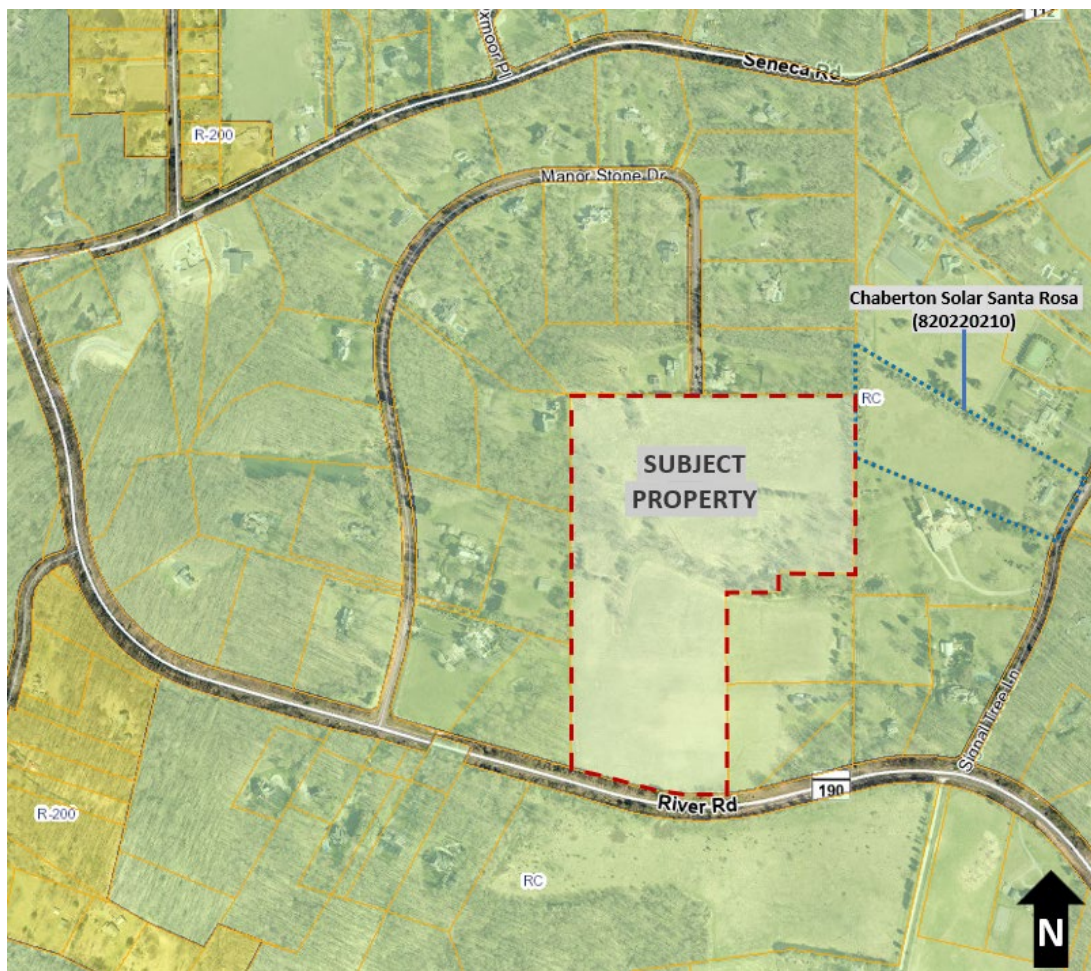


Figure 2 – Vicinity/Zoning Map

PROPERTY DESCRIPTION

The Subject Property is approximately 42 acres in size and is comprised of one unplatted parcel. The Property is currently undeveloped, contains small areas of forest, and is bisected by a stream which is an unnamed tributary to the Potomac River. Given the stream's presence along with steep slopes associated with its banks, the site has two access points – Manor Stone Drive provides access to the northern portion of the Site and River Road provides access to the southern portion.

Two open farming areas occupy the land on either side of the stream, except for a 1.7-acre forested area along the western property boundary. Part of the on-site forest is contiguous to forest on the abutting property which is protected by a conservation easement.



Figure 3 – Subject Property

SECTION 4: PROJECT DESCRIPTION

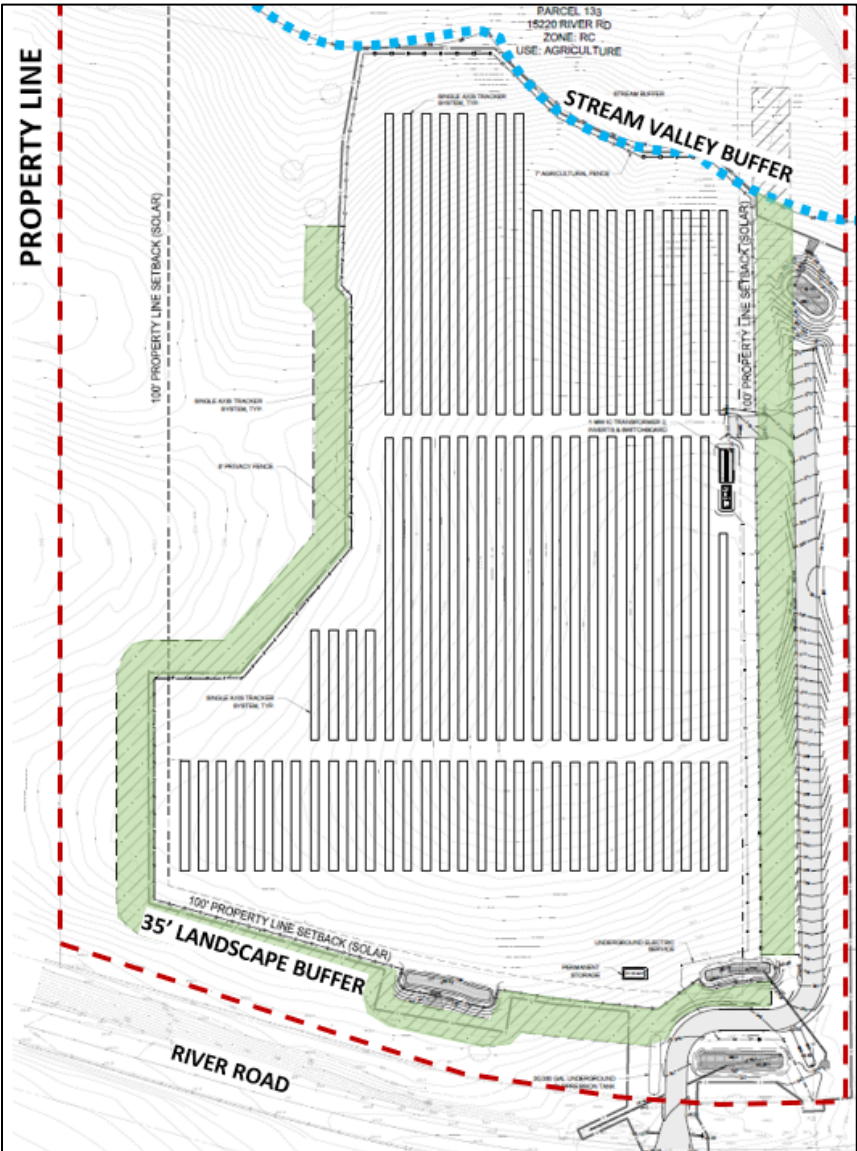


Figure 4 – Mandatory Referral Plan

The proposed Project Victoria II is a 1.25-megawatt community solar facility. It will occupy 8.3 acres of land in the southern portion of the Subject Property, with vehicular access from the south via River Road.

The solar array has been designed to avoid steep slopes, forest and the stream valley while maximizing distance between the arrays and neighboring properties. However, limited impacts/removals to mature canopy trees are required as described below. The arrays will be screened from view from adjoining properties and River Road by a robust landscape buffer of existing

and new trees (both evergreen and deciduous) and shrubs. The entire array area will also be bordered by a 7-foot-high fence which increases to 8-feet tall in key areas.

TRANSPORTATION

The Subject Application proposes the construction of solar array on the southern portion of the Property located at 15220 River Road. The Property has a frontage along River Road (MD 190) and Manor Stone Drive. This application proposes an access point at the northern boundary of the Property from Manor Stone Drive and another access point along River Road to the south. River Road (MD 190) is classified as a Country Connector per the Master Plan of Highways and Transitways with a master planned minimum 80-foot right-of-way along the segment that abuts the Subject Property. Manor Stone Drive is designated as Neighborhood Street with a 60-foot right-of-way. There is limited vehicular circulation and no pedestrian circulation proposed on the Site. Both driveways serve as access points onto the Site with turnarounds for emergency vehicles.

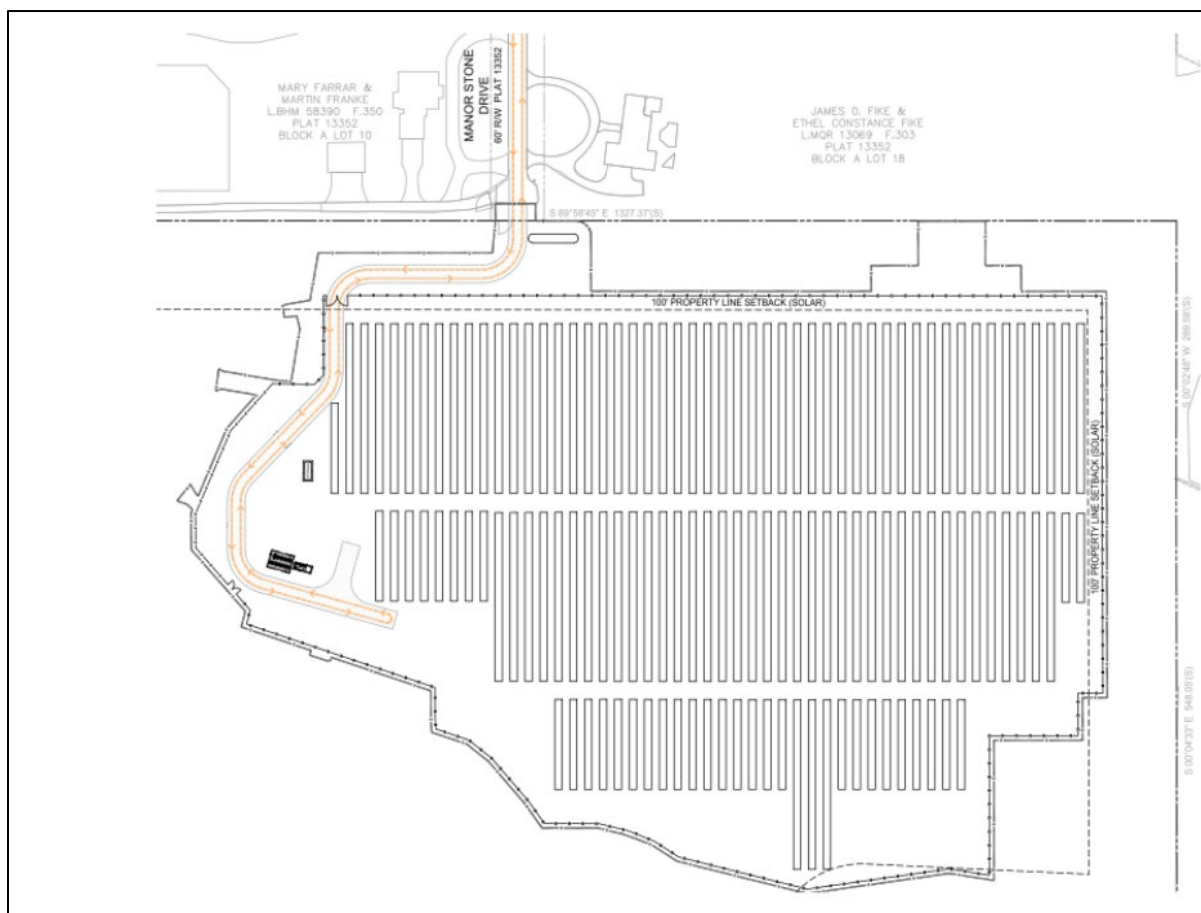


Figure 5 – Circulation Plan – Manor Stone Drive

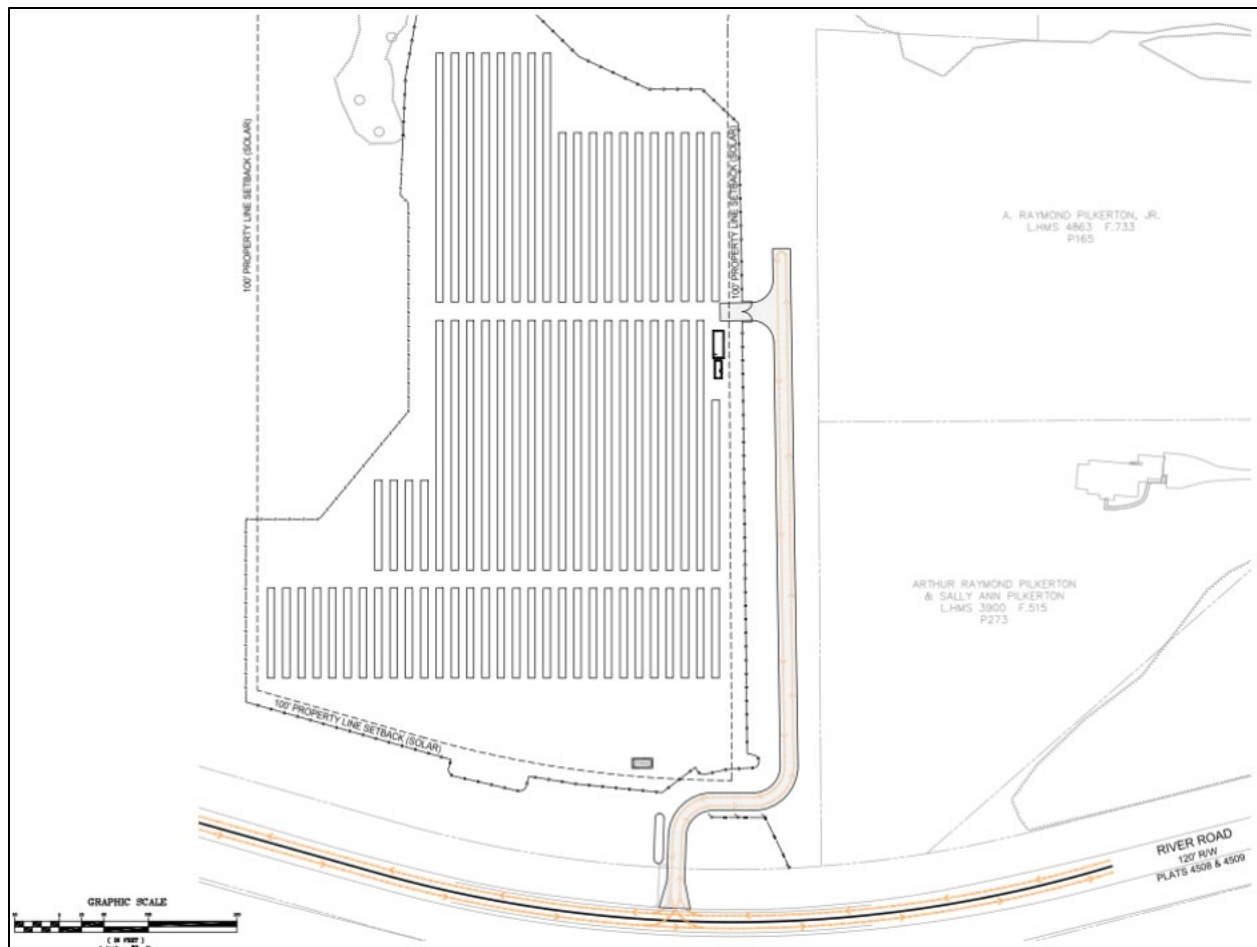


Figure 6 – Circulation Plan – River Road

ENVIRONMENT

A stream and its corresponding buffer bisects the Property from east to west. The solar array is proposed to the north of the stream that is central to the site. The array will not encroach or intersect with the environmental buffer. There are 1.69 acres of forest on the Property which will be protected under a Category I Conservation Easement and be undisturbed by this proposal.

SECTION 5: COMMUNITY OUTREACH

After Staff accepted the Mandatory Referral for review, Montgomery Planning notified local civic and homeowners' associations and other interested parties of this proposal. As of the date of this report, Staff has received several letter of correspondence from the community which expressed concerns regarding the proposed location for this solar project in relation to the surrounding residential neighborhoods and existing solar array site, the potential safety issues of fire and management of

utility infrastructure, environmental concerns for stormwater runoff and erosion, and overall visual and construction impacts of the project.

PROJECT LOCATION & VISUAL IMPACT

As discussed in the Maryland State Code findings below, which regulate the site selection and approval of community solar projects, the Chaberton Solar Victoria meets all applicable requirements for locating a 1-2 megawatt solar array at the Subject Property. In order to maintain the existing character, State Law requires the inclusion of a diverse vegetated buffer, with evergreen and deciduous plants, privacy fences located between the vegetated buffer and the proposed solar array, and the inclusion of 100-foot setbacks from neighboring properties; the Application has included these elements on the submitted plans.

SAFETY

As it relates to safety, the Applicant is required to work with Montgomery County Fire and Rescue to receive agency approval of their plans prior to final permit approval. These plans include a cistern onsite in order to combat potential fires without initial reliance of the existing community water infrastructure. The project will also be subject to permit review from MCDPS to further address the adequacy of the proposal in relation to existing utilities and infrastructure.

ENVIRONMENTAL IMPACT

As illustrated in the submitted Forest Conservation Plan (F20260280), the Applicant will remain outside of the onsite stream buffer, which contains steep slopes. Further, the Applicant will be required to receive an approved stormwater management plan to further regulate stormwater discharge from the site.

SECTION 6: MANDATORY REFERRAL ANALYSIS

MANDATORY REFERRAL CONSIDERATIONS

Mandatory Referral review is guided by Montgomery Planning's Uniform Standards for Mandatory Referral Review (December 2022), and the authority granted to the Planning Board in Section 20-301 of the Land Use Article of the Maryland Code. In order to ensure comprehensive review of public projects, the Planning Board has jurisdiction over applications filed by the State, Federal, and County governments, including MCPS, as well as municipalities located within the Montgomery County portion of the Regional District. This includes the following activities: (i) acquiring or selling land; (ii) locating, constructing or authorizing a road, park, public way or ground, public building or structure, or publicly owned or privately owned public utility; or (iii) changing the use of or widening, narrowing, extending, relocating, vacating or abandoning any of the previously mentioned facilities. The Planning Board, or its Staff, must review such projects pursuant to the Uniform Standards and transmit comments to the applicant within the prescribed timeframe.

As described in the Uniform Standards, the Planning Board, or its Staff, considers all relevant land use and planning aspects of the proposal including, but not limited to, those listed below.

Additionally, as of July 1, 2025, solar arrays are regulated under Maryland State Code, Public Utilities, Sec. 7-218, also known as the Renewable Energy Certainty Act (“RECA”), as solar energy generating stations. As this proposal includes a solar array generating 1-2 megawatts, the Subject Application is required to submit a site development plan with written documentation or other evidence showing compliance with 7-218(f). Staff analysis of the State findings of this Mandatory Referral is included below in addition to the Uniform Standard findings.

1. *whether the proposal is consistent with the County’s General Plan, functional plans such as the master plan of highways, environmental guidelines, the approved and adopted area master plan or sector plan, and other public plans, guidance documents, or programs for the area;*

This project is located within the 2002 *Potomac Subregion Master Plan* area which defines the plan area as 66 square miles bounded by I-270/I-495, the Potomac River, and Seneca Creek. The Plan notes that the area has evolved from rural and agricultural to a semi-rural/suburban subregion which has balanced development with protection of its environmental resources. While there are no site-specific recommendations for the Subject Property, this Application embodies several of the general recommendations of the Master Plan.

Of note, the Master Plan embraces and confirms the visions of the Maryland Economic Development Resource Protection and Planning Act of 1992, which includes recommendations to protect sensitive areas, reduce resource consumption, and address environmentally sensitive areas (such as streams and stream buffers). As proposed, the Applicant plans to protect onsite forest through establishment of a Forest Conservation Easement, which connects to a larger area of offsite forest. The proposal also keeps disturbance outside of the stream buffer area in order to protect water, soils, and steep slopes. Further, the solar energy generation provided by the proposal provides further energy resources rather than contributing to increased consumption. The environmental resources plan, which is part of the Potomac Subregion Master Plan, notes that the primary challenge for the area is to maintain environmental integrity in the face of development trends. This Application proposes a use which provides both environmental protection and energy production while limiting disturbance and impervious surfaces. These aspects of the plan show that the proposal follows the recommendations of the Master Plan.

The County’s General Plan, *Thrive Montgomery 2050*, includes a chapter on Environmental Resilience. The energy production efforts of Chaberton Solar Victoria relate directly to Thrive’s recommendations to reduce greenhouse gas emissions by providing an alternative to fossil fuel powered energy production. Thrive notes that equitable distribution of green infrastructure throughout the County is needed. While solar panels and green roofs are a

frequent provided in projects located in urban centers, the compact solar array proposed in this Application offers an alternative for the rural-suburban areas without the impact of high-density development.

2. ***whether the proposal is consistent with the intent and the requirements of the zone in which it is located;***
3. ***whether the nature of the proposed site and development, including but not limited to its size, shape, scale, height, arrangement, design of structure(s), massing, setback(s), site layout, and location(s) of parking is compatible with the surrounding neighborhood and properties;***
4. ***whether the locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;***

The required findings in items 2-4 above are now addressed by compliance Maryland State Code, Public Utilities, Sec. 7-218.

PUBLIC UTILITIES ARTICLE § 7-218(F) – SOLAR ENERGY GENERATING STATIONS - SITING STANDARDS

1. This subsection does not apply to agrivoltaics.

This Application does not include the use of agrivoltaics (the practice of co-locating solar panels and agriculture on the same lands).

2. Except as provided in paragraph (10) of this subsection, an owner of a proposed solar energy generating station:

- i. **shall provide a boundary of 150 feet between the solar energy generating station and the nearest wall of a residential dwelling;**

All solar arrays and accessory equipment are located at least 150 feet from the nearest wall of any residential dwelling as shown on the submitted Mandatory Referral Site Plans.

- ii. **provide a boundary of 100 feet between the solar energy generating station and all property lines, not including property lines that bisect the interior of a project area;**

All solar arrays and accessory equipment are located at least 100 feet from all property lines as shown on the submitted Mandatory Referral Site Plans.

iii. Shall:

1. Provide non-barbed wire fencing:

Chaberton Solar Victoria II LLC,
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- A. **Only on the interior of a landscape buffer or immediately adjacent to a solar energy generating station**
- B. **That is not more than 20 feet in height**
- C. **That is only black or green vinyl wire mesh if the owner proposes to use chain link fencing; and**
- D. **That is not less than 50 feet away from the edge of any public road right-of-way; and**
- 2. **may use barbed wire fencing around the substations or other critical infrastructure for protection of that infrastructure;**

Fencing for this Application will consist of a seven-foot agricultural fence immediately adjacent to each project area, inside the landscape buffer, plus sections of eight-foot privacy fence are provided as requested by neighboring property owners. The privacy fences will also be inside the landscape buffer. All fencing will be more than 50 feet away from the edge of any public road right-of-way. No chain-link fencing will be used.

- iv. **shall provide for a landscaping buffer or vegetative screening in accordance with paragraph (4) of this subsection;**

The project will provide landscape buffers that satisfy the requirements of paragraph (4) below.

- v. **except for equipment required for interconnection with electric system infrastructure, may not locate any solar array, ancillary equipment, or accessory buildings or facilities within a public road right-of-way;**

No equipment, buildings or facilities are proposed within a public road right-of-way except for driveway entrances and equipment required for electrical system interconnection.

- vi. **shall mitigate the visual impact of the solar energy generating station on:**
 - 1. **a preservation area, rural legacy area, priority preservation area, public park, scenic river or byway, designated heritage area, or historic structure or site listed on or eligible for the National Register of Historic Places or relevant county register of historic places; and**

All features of the solar project will be screened from view from River Road and the park by a robust landscape buffer approximately 35 feet deep, which will combine shade trees, ornamental trees, evergreen trees, ornamental grasses and shrubs.

- 2. **for a solar energy generating station that has the capacity to produce:**

A. more than 2 megawatts of electricity as measured by the alternating current of the station's inverter, shall include in the application submitted under subsection (c)(2) of this section a viewshed analysis for any area, structure, or site specified in item 1 of this item; and

Not Applicable to this Application as no more than 2 megawatts of electricity will be generated.

B. not more than 2 megawatts of electricity as measured by the alternating current of the station's inverter, shall include in an application for a site development plan a viewshed analysis for any area, structure, or site specified in item 1 of this item; and

No area, structure, or site specified in item 1 above was found near the Subject Property. As conditioned, the Applicant will verify and conduct a viewshed analysis if any are found.

- vii. shall provide notice of each proposed solar energy generating station to the emergency response services of each county in which any portion of the generating station is to be constructed, including a map of the proposed generating station and the proposed location of any solar collector or isolator switch.**

The submitted Fire Apparatus Access Plans were developed in consultation with Montgomery County Fire and Rescue Services, which has received notice of the projects and the locations of all pertinent equipment. This Application includes an in-ground cistern to provide a reliable source of water for emergency services use.

- 3. A local jurisdiction may not require the use of a berm for a solar energy generating station approved under this section.**
- 4. The buffer or vegetative screening required in paragraph (2)(iv) of this subsection shall:**
- i. be not more than 35 feet wide;**
 - ii. be provided along:**
 - 1. all property lines;**
 - 2. locations of the exterior boundary for the solar energy generating station where existing wooded vegetation of 50 feet or more in width does not exist; or**
 - 3. an alternative location within the boundary for the solar energy generating station if the owner demonstrates that the alternative location would maximize the visual screening;**
 - iii. provide for four-season visual screening of the solar energy generating station;**
 - iv. be placed between any fencing and the public view;**

- v. **include multilayered, staggered rows of overstory and understory trees and shrubs that:**
 - 1. **are a mixture of evergreen and deciduous vegetation;**
 - 2. **are predominantly native to the region;**
 - 3. **are more than 4 feet in height at planting;**
 - 4. **are designed to provide screening or buffering within 5 years of planting;**
 - 5. **may not be trimmed to stunt upward or outward growth or to otherwise limit the effectiveness of the visual screen;**
 - 6. **conform to the plant size specifications established by the American Standard for Nursery Stock (ANSI Z60.1); and**
 - 7. **are specified in a landscaping plan prepared by a qualified professional landscape architect;**
- vi. **be installed as early in the construction process as practicable and before the activation of the proposed solar energy generating station;**
- vii. **preserve to the maximum extent practicable and supplemented with new plantings where necessary, any forest or hedgerow that exists at a location where visual screening or landscape buffering is required; and**
- viii. **shall be maintained with a 90% survival threshold for the life of the solar energy generating station through a maintenance agreement that includes a watering plan.**

This Application does not include the use of a berm and will instead meet all requirements of item 4 above item 4-v.3 which requires that all plants are more than 4 feet in height at time of planting. The Applicant requests that shrubs be accepted at 24-30 inches at time of planting as may be required in order to appropriately satisfy the quantity requirements while working with local landscape nurseries. Staff recommends approval of this administrative adjustment as allowed by Land Use Article § 4-205.a.

Specific to the above criteria, this Application proposes a landscape buffer around the perimeter/property line of the Chaberton Solar Victoria array that will be 35-feet wide. The provided landscape plans show that four-season visual screening will be provided through the inclusion of evergreen trees and shrubs. Additionally, the proposed buffers will be located outside of the proposed fence. All plantings will be installed as early as practicable for each project and before the activation of the project. Staff has included a condition of approval requesting a maintenance agreement, which includes watering, be implemented for this plan.

- 5. **With respect to the site on which a solar energy generating station is proposed for construction, the owner of the solar energy generating station:**
 - i. **shall minimize grading to the maximum extent possible;**
 - ii. **may not remove topsoil from the parcel, but may move or temporarily stockpile topsoil for grading;**

- iii. to maintain soil integrity, shall plant native or noninvasive naturalized vegetation and other appropriate vegetative protections that have a 90% survival threshold for the life of the solar energy generating station;
 - iv. shall limit mowing and other unnecessary landscaping;
 - v. may not use herbicides except to control invasive species in compliance with the Department of Agriculture's weed control program; and
 - vi. shall post for the first 5 years of the life of the solar energy generating station a landscaping bond equal to 100% of the total landscaping cost with the county in which the solar energy generating station is located.
- 6.
 - i. Subject to subparagraphs (ii) and (iii) of this paragraph, a local jurisdiction shall hold any landscaping bond required under paragraph (5)(vi) of this subsection for 5 years.
 - ii. A local jurisdiction shall release 50% of the landscaping bond if, on inspection, the vegetative protections meet a 90% survival threshold.
 - iii. Following the release of a landscaping bond under subparagraph (ii) of this paragraph, the remaining landscaping bond shall be held for an additional 2 years and, on further inspection and confirmation that the vegetative protections continue to meet a 90% survival threshold, shall be released.

This item is addressed via condition of approval.

- 7. **Except as required by law, or for safety or emergency, the solar energy generating station may not emit visible light during dusk to dawn operations.**

This Application is not proposed to emit visible light during dusk to dawn operations. No lighting is proposed on site

- 8.
 - i. **This paragraph does not apply to:**
 - 1. equipment necessary for interconnection with the electric system;
 - or
 - 2. solar energy generating stations located on land that is also used for agricultural purposes.
 - ii. **A proposed solar energy generating station and any accessory structures associated with the station must have an average height of not more than 15 feet.**

The Applicant does not propose any structures on the project site. No element of the proposed solar energy generating stations will attain or exceed a height of 15 feet; as a result, the average height will be below 15 feet.

- 9. **Setbacks for solar energy generating stations:**
 - i. **shall be measured from the property boundary to the nearest solar array or accessory equipment, buildings, or facilities that generate, maintain, operate, manage, distribute, and transmit electricity; and**

- ii. **may not apply to any interconnection tie line or facility that connects a solar energy generating station to the electric system.**

All setbacks have been appropriately measured and applied as shown on the plans.

10.

- i. **The owner of a proposed solar energy generating station may provide to the Commission or local jurisdiction written documentation of a siting agreement:**
 - 1. **entered into with the county in which the proposed solar energy generating station is to be located; and**
 - 2. **that provides less stringent restrictions than those specified under this subsection.**
- ii. **If a proposed solar energy generating station provides to the Commission or local jurisdiction written documentation in accordance with subparagraph (i) of this paragraph, the proposed solar energy generating station shall be considered as meeting the requirements of this subsection.**

Acknowledged.; no written documentation of a siting agreement has been received. All applicable requirements have been met as noted above.

TRANSPORTATION

The Subject Property has a frontage along River Road (MD 190) and Manor Stone Drive. The Subject Application is located on the southern part of the site which abuts River Road. River Road (MD 190) is classified as a Country Connector per the Master Plan of Highways and Transitways with a master planned minimum right-of-way of 80 feet. Per Plat No.4508, recorded among the Montgomery County Land Records, the existing right-of-way is 120 feet, so no additional dedication is needed. The Applicant has proposed a single full-movement access at the southern boundary of the Property along River Road (MD 190). The Applicant's proposal for a 20-foot-wide driveway along River Road is in accordance with access standards.

Manor Stone Drive is classified as a Neighborhood Street per the Master Plan of Highways and Transitways with a master planned minimum right-of-way of 60 feet. No additional right-of-way or frontage improvements are being requested with this application because of the limited frontage along Manor Drive which is primarily being used for access.

LOCAL AREA TRANSPORTATION REVIEW

The 2024-2028 Growth and Infrastructure Policy require transportation adequacy tests for any project estimated to generate 30 or more net new peak hour vehicle trips.

The Project is located within the Orange Rural West, policy area and does not necessitate a Transportation Impact Study as the project does not generate any trips during the AM or PM peak hours given that there are no on-site personnel and periodic maintenance.

PEDESTRIAN AND BICYCLE FACILITIES

The 2018 *Bicycle Master Plan* proposes bikeable shoulders along the segment of River Road (MD 190) that abuts this Property. As a Country Connector, per the *Complete Streets Design Guide*, the bikeable shoulders should be 10-feet-wide, and the road should also include a 10-foot-wide street buffer, and 6-foot-wide sidewalk. Given the existing 120-foot right-of-way, sufficient right-of-way to accommodate these facilities exist. Since the proposed use is limited to a solar use and there is no adjacent bikeable shoulders or sidewalk, Staff is not recommending that these improvements be constructed with this project.

PARKING

The Applicant has not proposed parking with this application, and there is no minimum parking requirement for this use.

5. ***whether the proposal has an approved NRI/FSD and a preliminary SWM Concept Plan, and meets the requirements of the Forest Conservation Law (Chapter 22A of the County Code). Forest Conservation Plan, if applicable, must be approved by the Planning Board, either before or at the time of the Board's mandatory referral review and action on the project. Unlike the mandatory referral review by the Board, the conditions of the Forest Conservation Plan are binding on all county projects and require a Resolution of Approval.***

FOREST CONSERVATION

The Application satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines as further discussed in the findings for Forest Conservation Plan F20260280.

STORMWATER MANAGEMENT

Prior to final permit approval, the Applicant must achieve an MCDPS approved a Stormwater Management Concept Plan which demonstrates compliance with Chapter 19 sediment control and stormwater management requirements.

SUSTAINABILITY

The proposal will create greater capacity for energy in the county from a renewable resource. The use of solar energy can be a more sustainable option than other non-renewable methods of electricity generation. Further, the layout of the proposal avoids disturbing the existing environmental buffer and will create a protective easement around the existing forest on site.

6. ***whether a Preliminary or a Final Water Quality Plan has been reviewed by the Planning Board if the project is located in a Special Protection Area. In addition, for a Water Quality Plan for a project on public property, the Board must determine if the plan meets any additional applicable standards for Special Protection areas, including the standards of Article V. WATER QUALITY REVIEW IN SPECIAL PROTECTION AREAS, of the County Code (pursuant to Section 19-65(d)(4));***

Not applicable

7. ***whether or not the site would be needed for park use if the proposal is for disposition of a surplus school or other publicly-owned property.***

Not applicable

8. ***whether alternatives or mitigation measures have been considered for the project if the proposal is inconsistent with the General Plan or other plans and policies for the area, or has discernible negative impacts on the surrounding neighborhood, the transportation network, the environment, historic resources (including burial sites) or other resources.***

Not applicable; as described above, the proposal is consistent with both the General Plan and the Master Plan.

SECTION 7: FOREST CONSERVATION PLAN NO. F20260280

All Forest Conservation Law, Chapter 22A requirements are satisfied.

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. The Forest Conservation Plan complies with the *Guidelines for Environmental Management of Development in Montgomery County* (“Environmental Guidelines”) and the Forest Conservation Law, as conditioned and described below.

ENVIRONMENTAL GUIDELINES

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420242470 was approved on September 17, 2024. The Site contains 1.69 acres of forest, a stream and 7.23 acres of associated stream valley buffer, and hydraulically adjacent steep slopes. Large specimen trees are distributed across the Property. The Property is within the Potomac Direct watershed, a State Use Class I,P stream. The Property is not within a Special Protection Area. The FCP submitted with this Application conforms with the Environmental Guidelines by allowing development without any encroachments or impacts to the buffer or forest and placing the forest and stream valley buffer in a Category I Conservation Easement.

VARIANCE

Table 1 – Protected Trees to be Impacted

Tree #	Common Name	Latin Name	DBH	Condition	% Impact
1	Weeping Willow	<i>Salix babylonica</i>		Poor	40%
13	Red Oak	<i>Quercus rubra</i>		Poor	4%
21	Tulip Poplar	<i>Liriodendron tulipifera</i>		Poor	3%
23	White Mulberry	<i>Morus alba</i>		Poor	35%
24	Sawtooth Oak	<i>Quercus acutissima</i>		Fair	2%
47	Sawtooth Oak	<i>Quercus actuissima</i>		Fair	10%
48	Sycamore	<i>Platanus occidentalis</i>		Good	7%
60	Silver Maple	<i>Acer saccharinum</i>		Poor	20%
63	Eastern Red Cedar	<i>Juniperus virginiana</i>		Good	21%

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as 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-21 (“Variance”). Otherwise, such resources as defined under Section 22A-12(b)(3) must be left in an undisturbed condition. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of a historic site or designated with an historic structure; are designated as a national, State, or County Champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request

The Applicant submitted a variance request in a letter dated October 22, 2025. This Application will require the removal of 2 Protected Trees and CRZ impact to 9 Protected Trees as identified in Table 1 and Table 2. In accordance with Section 22A-21(a), Staff agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property for the solar array without the Variance. The trees to be removed are located within the LOD.

Table 2 – Protected Trees to be Removed

Tree #	Common Name	Latin Name	DBH	Condition
14	Black Cherry	<i>Prunus serotina</i>	30	Poor
19	White Mulberry	<i>Morus alba</i>	32.6	Poor

Staff has made the following determinations in the review of the Variance request and the proposed Forest Conservation Plan.

1. *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 trees are due to the reasonable development of the property and the specimen trees that are present in the region of the Site that is most suitable for the solar array.

2. *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 Master Plan recommendations.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

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

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed are not located within a stream buffer, wetland, or Special Protection Area. The FCP proposes to provide mitigation for the removal of the Protected Trees in the form of tree planting on the Property. These new trees will replace any water quality functions that may have been lost due to the removal of existing trees.

Mitigation for Protected Trees

There are two (2) Protected Trees proposed for removal in this variance request, resulting in a total of 62.6 inches DBH being removed. The Applicant proposed mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of at least 1-inch caliper for every four inches removed. This results in a total mitigation requirement of 15 inches with the installation of six 3-inch caliper trees. Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost due to the removal of these specimen trees. These mitigation trees must be overstory trees native to the piedmont region and will be planted in the stream valley buffer as shown in Figure 6.

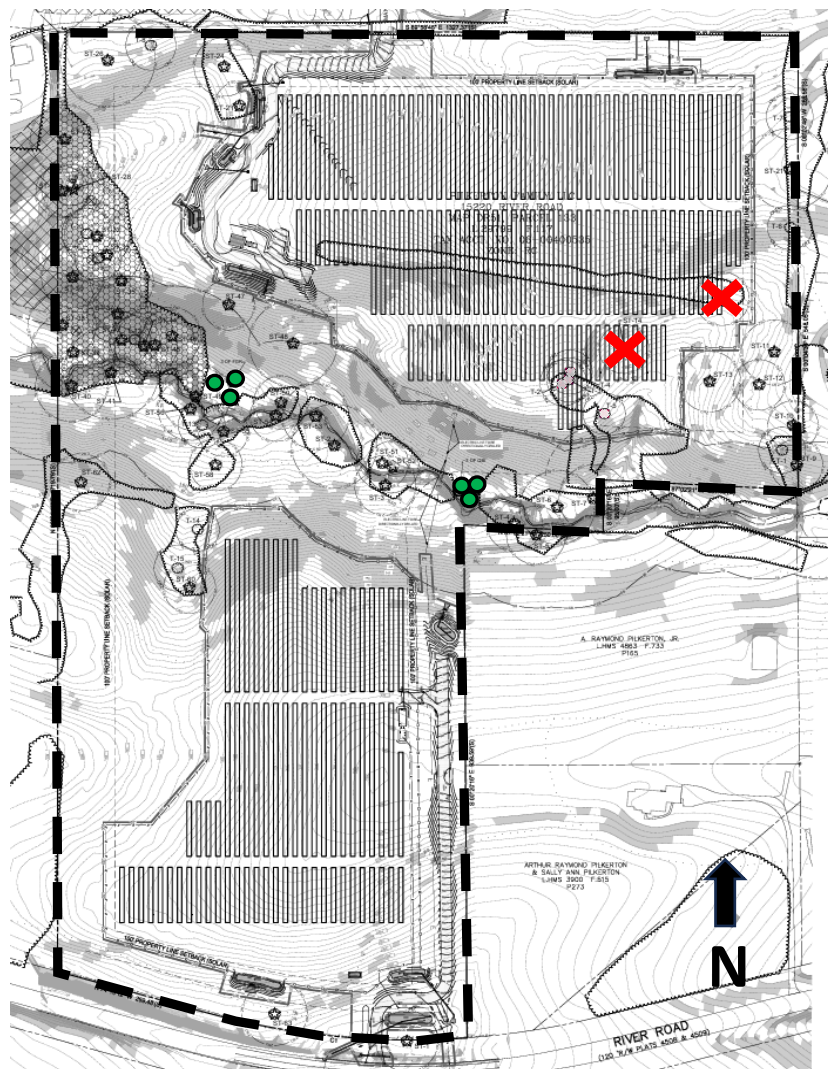


Figure 8 – Locations of Variance Trees and Mitigation Trees

Variance Recommendation

Staff recommends that the Planning Board approve the variance request.

SECTION 8: CONCLUSION

As conditioned, the Mandatory Referral and Forest Conservation Plan applications each satisfy the applicable standards of Chapter 22A Forest Conservation Law, the State of Maryland Land Use Law and substantially conform to the recommendations of the 2002 *Potomac Subregion Master Plan*. Therefore, Staff recommends approval of Mandatory Referral No. MR2026011 with comments and Forest Conservation Plan No. F20260280 with conditions as specified at the beginning of this report.

ATTACHMENTS

Attachment A: Mandatory Referral Plan

Attachment B: Forest Conservation Plan

Attachment C: Agency Letters

Attachment D: Community Correspondence