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# Transcript of Hearing

**Date:** April 28, 2023

**Case:** Free Rein Solar Farm, LLC, In Re:

**Planet Depos**

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1			1 group. And I have a team of engineers with me from Bowman
2	PAGE		2 Consulting. And I can just ask them to individually
3	1. SWM Landscape Plan		3 identify themselves.
4	m. DPS SWM Concept Approval Letter	x/81	4 HEARING EXAMINER: Perfect. Thank you.
5	4/11/2023- Planning Board Letter Unanimously Approving Conditional Use (5-0)		5 MR. GLATFELTER: Hi, my name is Brad Glatfelter. I'm a
	4/11/2023-Staff Report (date 3/20/23)	34/81	6 civil engineer licensed in Maryland. And I work for Bowman
	Resume of Carlos Garcia	x/81	7 Consulting. With me today we have a planner, landscape
	4/20/2023- Affidavit of Posting	x/81	8 architect licensed in Maryland, Gregg Eberly and Ethan
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7			10 Carlos Garcia is a licensed traffic engineer. And Joe Riley
8			11 Ryan is another licensed civil engineer supporting this
9			12 application. Not all will need to speak today, but if any
10			13 technical questions arise they are available and we are all
11			14 available to answer your questions.
12			15 MS. LEE-CHO: Great, thank you.
13			16 HEARING EXAMINER: All right. So we have it looks like
14			17 two additional individuals. Mr. Boucher, did I pronounce
15			18 that right, sir?
16			19 MR. BOUCHER: Boucher is how you pronounce it.
17			20 HEARING EXAMINER: Boucher, okay.
18			21 MR. BOUCHER: Yes. I'm a retired science -- are you
19			22 getting an echo?
20			23 HEARING EXAMINER: Yeah, a little bit of one.
21			24 MR. BOUCHER: Okay. Well, I'm not going to speak much.
22			25 So I'll introduce myself and then go mute. I'm a retired
PROCEEDINGS		10	12
1			1 climate scientist interested in the development of solar
2			2 power in the county. And so I'm just here to listen.
3	HEARING EXAMINER: All right. Good morning everyone.		3 HEARING EXAMINER: All right. So do you have a -- are
4	My name is Katie Byrne. I'll be the Hearing Examiner today		4 you for or against the application?
5	assigned to this particular matter which is conditional use		5 MR. BOUCHER: I'm for the application.
6	2305, Free Rein Solar Farm. Today the conditional use is		6 HEARING EXAMINER: All right. Thank you, sir. And
7	for an application for a solar collection system in an AR		7 then I have Martin Creel.
8	zone under use standards set forth in Article 59 Section		8 MR. CREEL: Yeah. Hi there. I'm a neighbor of Free
9	3.7.2. So today I'll listen to testimony, review evidence,		9 Rein Farm. Hi, Mike, how you doing?
10	and render an opinion on the application pursuant to the		10 MR. CHAPMAN: Hey, Marty.
11	criteria set forth for conditional uses in Article 59,		11 MR. CREEL: I live on Clover Hill Farm. On all the
12	Section 7.3.1. If you disagree with my decision you may		12 documents it says it's owned by Emmett and Diana Tydings,
13	appeal it to the Board of Appeals within 10 days after my		13 but we bought the place about half a year ago.
14	decision is issued.		14 HEARING EXAMINER: Okay. All right. And are you in
15	So at this point we are going to go ahead and identify		15 support or opposition of the application?
16	the parties. So what I would like to do -- it looks like we		16 MR. CREEL: I'm in support.
17	have 11 people logged on excusing myself and Ms. Johnson		17 HEARING EXAMINER: Okay. All right. Thank you, Mr.
18	from that list in the meeting. So we'll start with Ms. Lee-		18 Creel. And let's see. Mr. Shaver.
19	Cho. If you could, identify yourself and then tell me who		19 MR. SHAVER: Yes. My name is William Shaver. I'm a
20	you have here with you.		20 neighbor. I back up to the Free Rein horse farm, soon to be
21	MS. LEE-CHO: Thank you. For the record, Soo Lee-Cho		21 a solar farm. And I'm in favor.
22	with the law firm of Bregman, Berbert, Schwartz, and		22 HEARING EXAMINER: Okay. All right. Sounds good. So
23	Gillday. I am the land-use counsel for this application. I		23 I think we gotten everyone here. So we'll go through a
24	have with me, Mike Chapman, who is one of the principles of		24 little bit of Teams housekeeping for our virtual meeting. I
25	the development entity as well is part of the ownership		25 would like everyone to please mute unless you're speaking.

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<p>13</p> <p>1 Sometimes is helpful -- it's up to you if you want to keep 2 your camera on or if you want to keep your camera off. 3 And as you noticed, I'm recording this particular 4 Team's meeting. Now I would normally record it whether the 5 court reporter was here or not because it aids the court 6 reporter. It's not necessarily for public consumption, but 7 it's recording specifically for the court reporter to assist 8 them as they complete the transcript. The chat function has 9 been disabled. So if you want to speak your hand -- if you 10 want to speak, please either use the raise your hand 11 function. If you're not comfortable with that you can turn 12 your camera on and wave at me as well. 13 We also ask that people try not to speak over each 14 other because it's hard for the recording particularly 15 dealing with the Teams recording when the court reporter is 16 here for them to identify who is speaking for the 17 transcript. Now normally I would go ahead and run the share 18 screen function using the website. But Ms. Lee-Cho, if 19 you're more comfortable -- sometimes it's -- if you're 20 comfortable doing that and sharing screen in Teams, I'm 21 perfectly happy to let you do that or whoever your witnesses 22 are because you know where you want to go next rather than 23 telling me click next page, click next page. So I'll leave 24 it up to you. I'm here if you need me, but if you prefer to 25 run Teams and share screen, I'm fine with that.</p>	<p>15</p> <p>1 opening statement at all? 2 MS. LEE-CHO: Very brief. And then I will also present 3 the order of witness presentation just to give you an idea 4 of where we're going. Again, Soo Lee-Cho, the Applicant's 5 land-use counsel. Just as a brief overview of the project, 6 this is a community solar farm project. It is located in 7 the agricultural reserve zone, AR zone. It is less than 2 8 Megawatts, a photo -- a solar collection system on a 4.92 9 acre portion of a larger property of 82.4 acres in size. 10 You will hear that while the main solar array site is 11 4.92 acres in size the complete -- the total limits of 12 disturbance inclusive of an access drive and other related 13 facilities will total 7.52 acres and that will encompass 14 what we will be describing as a conditional use area. The 15 site is located at 5011 Riggs Road in Gaithersburg. And 16 there is an existing horse farm operation on the property 17 that will remain. So it will continue to exist as a horse 18 farm operation in conjunction with the introduction of the 19 solar farm conditional use. 20 In terms of the order of witnesses, I will have Mike 21 Chapman go first. He will be the main witness to provide 22 the bulk of the facts and describe the project. I'm going 23 to change the order of presentation for my team a little 24 bit. I'm going to go ahead and ask Carlos Garcia to follow 25 Mr. Chapman. He is our traffic engineer. And I'm doing</p>
<p>14</p> <p>1 Let's see. So essentially just a little bit of content 2 some of the housekeeping issues, the nature of the 3 proceedings. We only really have one party here today and 4 that's the Applicant. So you can give us an opening 5 statement. We will move forward with your presentation of 6 the application in your factual case. Any other interested 7 persons may speak after that presentation. 8 So those of you who are in support, if you want to 9 speak after the conclusion of the Applicant -- of the 10 Applicant's case, just please let me know by raising your 11 hand. And then essentially if anybody has any objections to 12 anything, again, please raise your hand. But since it seems 13 that everyone is in support I don't think that that will 14 happen. 15 And just to reiterate, as I stated earlier approval is 16 based on conditional use criteria as set forth in the zoning 17 code, which is Section 59.7.3.1. And please address all 18 testimony to that criteria. And let's see, as far as 19 preliminary matters, have you had an opportunity to take a 20 look at those exhibits that are identified on the website? 21 And are those all of the exhibits you intend to refer to 22 today? 23 MS. LEE-CHO: Yes, they are. 24 HEARING EXAMINER: Okay. Excellent. All right. So we 25 will go ahead and get started. Ms. Lee-Cho, do you have an</p>	<p>16</p> <p>1 that because his testimony will be very brief. As you can 2 imagine, solar farms don't have much traffic generation, but 3 it is a requirement to address as part of the findings. So 4 I will ask Mr. Garcia to very briefly testify to the traffic 5 exemption letter that was provided as part of the 6 application and then allow him to be excused for the rest of 7 the hearing so we don't hold him up for the rest of the day. 8 And then we will have Gregg Eberly with Bowman as well, 9 address -- also civil engineer -- not civil -- landscape 10 architect addressing the environmental features of the site. 11 Then we will proceed with -- I'm sorry -- I'm going through 12 my order. Then Brad Glatfelter will bring in the rear 13 addressing also civil engineering, addressing stormwater 14 management, and fire access issues. And then in closing 15 will bring back Mr. Chapman to address some additional 16 necessary findings to close out the hearing. 17 HEARING EXAMINER: All right. Sounds great. All 18 right. So Mr. Chapman is your first witness. 19 MS. LEE-CHO: Yes. 20 HEARING EXAMINER: If you could raise your hand -- or 21 were you done, Ms. Lee-Cho? I'm sorry. 22 MS. LEE-CHO: Yes. Yes, I am. 23 HEARING EXAMINER: All right. If you could raise your 24 right hand, sir? 25 Do you promise to tell the whole truth and nothing but</p>

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<p>17</p> <p>1 the truth?</p> <p>2 MR. CHAPMAN: I do.</p> <p>3 HEARING EXAMINER: Thank you.</p> <p>4 MS. LEE-CHO: All right. Mr. Chapman, to begin can you</p> <p>5 please go ahead and state your name and address for the</p> <p>6 record?</p> <p>7 MR. CHAPMAN: Yes, I will. And good morning. Thank</p> <p>8 you for the opportunity to put this application forward. I</p> <p>9 am Mike Chapman. I reside at 4611 Sleaford Road, Bethesda.</p> <p>10 I'm a 29 year resident of Montgomery County. I live here</p> <p>11 with my wife who is a 30 year veteran of the Montgomery</p> <p>12 County Public School system as a reading -- reading</p> <p>13 specialist and classroom teacher.</p> <p>14 MS. LEE-CHO: Can you please describe your position and</p> <p>15 role in the property ownership entity as well as the project</p> <p>16 applicant entity?</p> <p>17 MR. CHAPMAN: Sure. So as Soo -- can I call you Soo in</p> <p>18 this proceeding? As just mentioned I'm serving two roles on</p> <p>19 this project. One is I'm a part owner in the farm on which</p> <p>20 the solar project is located. And secondly I'm the</p> <p>21 principal developer of the solar project. First of all on</p> <p>22 the farm ownership my wife and I are partners with four</p> <p>23 other families who about three years ago got together and</p> <p>24 pooled our resources to buy the farm. At that point time it</p> <p>25 was being sold and it looked like there was some real estate</p>	<p>19</p> <p>1 challenging. So we started looking at ways that we can make</p> <p>2 the farm more economically productive, that is use our land</p> <p>3 to close the economic gap that we were facing.</p> <p>4 So around the same time we learned about the zoning</p> <p>5 change that Montgomery County opened the ag reserve to</p> <p>6 limited solar development. And so we decided, and that will</p> <p>7 bring me to my next point, that we would begin investigating</p> <p>8 a community solar project on the site. The second -- my</p> <p>9 second role in this project is the developer of the solar</p> <p>10 project. So with the support of the other owners I formed a</p> <p>11 separate company called Free Rein Solar Farm LLC to</p> <p>12 basically do the development, support the development, and</p> <p>13 ultimately own and operate if we are fortunate enough to get</p> <p>14 that far operate that facility.</p> <p>15 And the reason -- and we'll get into this next. But I</p> <p>16 do have a long career in the energy business developing,</p> <p>17 managing, operating small and large power plants. And I</p> <p>18 have experience with a lot of different technologies. So</p> <p>19 it's kind of in my wheelhouse. Some of the other owners</p> <p>20 have special expertise too. So we decided to undertake this</p> <p>21 ourselves.</p> <p>22 And I think it's probably relevant to spend just a</p> <p>23 moment about how the solar project and the farm, the synergy</p> <p>24 as to how the solar project is going to benefit the farm</p> <p>25 Just real quickly, the solar project will generate</p>
<p>18</p> <p>1 interests that were -- look like they might acquire it.</p> <p>2 And the farm itself is a horseback riding, equestrian</p> <p>3 sports, boarding, pasturing facility has been in operation</p> <p>4 for over 40 years. And so several of the families that had</p> <p>5 been enjoying the farm and participating in that over years</p> <p>6 basically pooled our resources and we bought the farm. And</p> <p>7 our goal is just to continue to operate in the current</p> <p>8 manner and the manner that it has been operating. It's a</p> <p>9 nice, very nice property, rolling hills. It's got a -- we</p> <p>10 will give you some more information about the facility</p> <p>11 later. But it's got boarding capability for about 60</p> <p>12 horses. And right now we have about 40 on site.</p> <p>13 It has a nice indoor riding arena that's used recently</p> <p>14 for competitions and lessons. So there's all kinds of</p> <p>15 people that participate in enjoying that sport there. The</p> <p>16 owners are very hands-on. We are just regular people that</p> <p>17 got together to try to make this work. And we're still</p> <p>18 figuring out the business. Most weekends you can find a</p> <p>19 couple of us on site fixing things and shoveling manure and</p> <p>20 caring for the horses. So everybody is pretty involved.</p> <p>21 When we acquired the business though it was a tough</p> <p>22 time. We were in the midst of COVID. There were a lot of</p> <p>23 business disruptions. The prior owners had neglected a lot</p> <p>24 of the cap-ex needs of the property. So we -- it's an</p> <p>25 interesting and fun enterprise, but is also very</p>	<p>20</p> <p>1 electricity for sale, but it will also supply 100 percent of</p> <p>2 the farm's electricity needs at no cost for 25 years. There</p> <p>3 will be a contractual relationship between the solar company</p> <p>4 and the farm. Of course we're kind of affiliates.</p> <p>5 There will also be -- the second port revenue stream</p> <p>6 will be land lease payments. So there will be significant</p> <p>7 land lease payments that will flow from the solar project to</p> <p>8 the farm again for that 25 year period which is extendable</p> <p>9 under the terms of our arrangement. So there also will</p> <p>10 be -- we will provide some upgraded fencing. The solar</p> <p>11 project will provide some funds for doing that in some other</p> <p>12 improvements on site.</p> <p>13 Also the other owners are very supportive that we have</p> <p>14 joined or have decided to participate in the low and</p> <p>15 moderate income classification for the Maryland Solar Pilot</p> <p>16 Program. You can sign up when you register to dedicate part</p> <p>17 of the output of the project to low and moderate income</p> <p>18 customers. So we've dedicated 30 percent to those</p> <p>19 customers, we will be providing discounted clean energy to</p> <p>20 that segment.</p> <p>21 As Soo told you, the farm will continue to operate as</p> <p>22 an equestrian sports facility. We're going to try to make</p> <p>23 sure the solar has as little disruption as possible. It</p> <p>24 will take a lot of coordination, but we're committed to --</p> <p>25 both sides are committed to doing that.</p>

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6 (21 to 24)

<p>21</p> <p>1 MS. LEE-CHO: Great. Thank you. So Mr. Chapman is not 2 being proffered as an expert witness, but I do think that 3 his background, professional background will be -- we would 4 like to get that into the record only to help the Court and 5 the fact that he is the lead developer and has researched a 6 lot of the criteria for compliance with regulatory 7 requirements. So he will be my main witness to attest to 8 how the project qualifies and has met all the requisite 9 requirements.</p> <p>10 So based on that reliance on his testimony, I would 11 like to go ahead and ask him to provide a brief professional 12 background as well as describe your research efforts that 13 you undertook before you began this journey to implement 14 community solar on the property.</p> <p>15 MR. CHAPMAN: Thank you. Okay. So my actual job is 16 senior vice president of Kelson Energy, which is an energy 17 asset management and development company headquartered in 18 Columbia, Maryland. I've held that position for over 10 19 years. I hold a BS in mechanical engineering from Virginia 20 Tech and a professional engineering license in Virginia. 21 I've been working for 30 years on energy project 22 development, operation, engineering, and management.</p> <p>23 I worked on a multitude of technologies, large projects 24 and small projects from solar to natural gas turbines to 25 battery energy storage. Some of those assets are 100 times</p>	<p>23</p> <p>1 and geotech study to make sure that the land is suitable for 2 supporting the construction. And as I mentioned, Prime has 3 developed or designed the electric interconnection in 4 conjunction with Pepco. And we'll be going out to 5 contractors here shortly to advance that project.</p> <p>6 One other entity I want to bring your attention to is 7 the Montgomery County Green Bank. You may be aware that 8 that's an entity that has been set up by Montgomery County 9 to assist and support energy efficiency and clean power 10 initiatives in the county. And they have given me a letter 11 offering to provide financing, debt financing for the 12 project or to help arrange debt financing for the project 13 under terms that would work for the project. So they are 14 very supportive of the project as well.</p> <p>15 Let me respond to the point about researching and 16 understanding what we're getting into. Like I said, in my 17 career I worked on solar development on other assets and 18 have been following the Maryland initiative to bring 19 community solar to Maryland. So if you're not familiar with 20 community solar you will probably be hearing about it more. 21 It's a framework where people can participate in a solar 22 project even though the panels are not on their roof. They 23 can effectively subscribe to the solar project and get 24 credited for the output of that, the generation from that 25 solar project will get credited to --</p>
<p>22</p> <p>1 larger than this one, but all the projects large and small 2 have their unique challenges. So I have a long career on 3 the technical and also the management side. During that 4 career I've purchased parts and services and equipment worth 5 over \$1 billion. So I feel -- and I will be supported by 6 various experts which I will tell you about a moment. So we 7 feel very qualified and prepared to undertake this project.</p> <p>8 The solar project has -- the solar company has retained 9 a number of professionals to assist in the development. 10 These include some of the folks at your meeting today, 11 Bowman Consulting, Brightman law firm. We also have an 12 electrical engineer that's working on the interconnect 13 called Prime Partners. They routinely work with Pepco and 14 they are helping to design the electrical interconnect.</p> <p>15 Also Aurora is a solar -- specialty solar engineer and 16 constructor based in Columbia, Maryland. They are on our 17 team. We've used a soil geotech engineer called EBA. We've 18 got local accounting support. And Pepco plays an important 19 role in this project. We will be interconnecting with the 20 Pepco local electric distribution system. So Pepco has 21 visited the site and approved the project through -- after a 22 feasibility study, has approved the project for 23 interconnection.</p> <p>24 Aurora has provided price estimates and 25 constructability estimates. Like I said we've done a soil</p>	<p>24</p> <p>1 HEARING EXAMINER: Mr. Chapman, I'm going to pause you 2 for one moment because it looks like we have our court 3 reporter here. Mr. Castello, how are you?</p> <p>4 You may continue with your testimony.</p> <p>5 MR. CHAPMAN: Sure. So I was just speaking about the 6 work, the background work that we had done to determine that 7 this was a viable project and we were qualified to undertake 8 the development and implementation of the solar project. So 9 just speaking about the Maryland community solar pilot 10 program which was put in place in -- I think it was 2017. 11 And the initiative was to encourage community solar project 12 in the state.</p> <p>13 There was an allocation of megawatts of capacity that 14 was made available to developers of community solar. There 15 is a set amount per year and you could -- a developer could 16 register for a particular segment of those -- of that 17 capacity. And one of the segments that you could register 18 for was, as I mentioned earlier, the low and moderate income 19 segment where you're committing to supply at least 30 20 percent of the output to the low and moderate income 21 community.</p> <p>22 And in order to do that, to attract their participation 23 we'll have to offer power at a discounted price. The price 24 that will be offered will be any way to discount the Pepco 25 retail rate, but especially for that community typically</p>

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<p>25</p> <p>1 there's deeper discounts that are offered in the 2 neighborhood of 20 and 30 percent. 3 HEARING EXAMINER: Can I ask a quick question, Mr. 4 Chapman? I just want to make sure -- I want to understand 5 it kind of a little bit from the ground up. So you 6 represent the ownership of the land upon which the solar 7 will reside. You are the developer as the principle of Free 8 Rein Solar. So you're developing the community solar on 9 land that you own using this entity. So Free Rein Solar is 10 the developer for this particular project? 11 MR. CHAPMAN: Correct. 12 HEARING EXAMINER: Who owns the solar equipment? 13 Because -- is that the developer that owns the solar 14 equipment and it's a land lease from the ownership -- 15 because I get it that you're representing two parties. I 16 just want to make sure that I have the distinction clear in 17 my mind. So as the four families that own the land, they 18 have a land lease with the development partner and the 19 development partner is Free Rein Solar and Free Rein Solar 20 will be the owner/operator of the community solar on the 21 land. Is that an accurate description? 22 MR. CHAPMAN: Exactly. Yes, it is. 23 HEARING EXAMINER: All right. I just -- that's what I 24 had in my head, but I just wanted to make sure that I was 25 hearing you correctly and that I had the parties right.</p>	<p>27</p> <p>1 registration program also with their community solar 2 program. And shortly we will be going out for subscribers 3 to the output itself. 4 And there's a whole structure that's in place. There 5 is other -- actually third parties that can manage that, 6 that subscriber world and coordinate with Pepco. So 7 effectively what happens is subscribers will get credited 8 for whatever portion they sign up for of the output from the 9 solar facility, will get credited to their bill. And they 10 can be anywhere in the Pepco service territory. So they 11 could be far away from the solar farm, but they can still 12 subscribe to it, get the credit on their bill, and get the 13 economic benefit. 14 And then on the technical side I think we have -- I've 15 consulted with a number of experts. We are well down the 16 road with talking with contractors, getting pricing. I have 17 the engineering team that I spoke about earlier. So we feel 18 very qualified and very positive that we'll be able to 19 implement this project safely and reliably. 20 MS. LEE-CHO: At this point I think I was going to ask 21 you to get into some of the technical system requirements 22 and construction and maintenance. But I think maybe we can 23 move that to when we're talking about the proposal itself. 24 And I just wanted to lay the foundation and just for the 25 record ask you whether you are aware or made yourself</p>
<p>26</p> <p>1 Okay, thank you. 2 MR. CHAPMAN: You've got it right, yeah. There are 3 separate entities but there's the relationship that I spoke 4 about earlier. Yes, there will be -- they are separate 5 entities. The solar project will own and operate -- Free 6 Rein Solar Farm, LLC will own and operate, develop, own, and 7 operate the solar facility. And there will be -- and we'll 8 pay farm lease payments, supply the electricity, make the 9 other improvements that I spoke about earlier. 10 HEARING EXAMINER: Okay, perfect. Thank you, so much. 11 Sorry to interrupt, but I just -- before we continued -- 12 before we got further down on like the next steps of how 13 Free Rein Solar will work I just wanted to make sure I've 14 got that clear. Thank you. 15 MR. CHAPMAN: Yeah, you've got it. So Maryland has 16 established this project. Free Rein Solar has applied for 17 and received approval to participate in the Maryland 18 community solar pilot program. So we are accepted and we 19 are routinely communicating with the public service 20 commission. There is quarterly reporting that is required 21 on progress towards implementation. 22 And then once the project gets up and running they will 23 track how your managing your subscribers, making sure your 24 subscribers are happy and you're not causing problems there. 25 We are also registered with Pepco in their -- they have a</p>	<p>28</p> <p>1 familiar with the Montgomery County code conditional use 2 requirements both of the specific requirements for solar 3 collection systems in the AR zone found in section 4 59.3.7.2.B.2 of the 2014 zoning ordinance. 5 MR. CHAPMAN: Absolutely. That's been an essential 6 part of our planning and effort here over the last year 7 effectively to make sure that we can comply with those 8 requirements that include requirements on excluding certain 9 soil types meaning we can't build on certain soil types, 10 minimizing disturbance, making sure there is compatible ag 11 use. So all those in all the requirements to go with that, 12 we've been working closely with the county staff and our 13 experts to make sure we are in full compliance. 14 MS. LEE-CHO: We will be getting into much more detail 15 on each of those specific requirements. And Mr. Chapman 16 will be testifying to the project's compliance. But I just 17 wanted to lay the foundation that he is very familiar with 18 those requirements. In addition, there are general approval 19 requirements, necessary findings for all conditional use 20 approvals under section 59.7.3.1.E of the zoning ordinance. 21 Are you familiar with those requirements as well? 22 MR. CHAPMAN: Yes. Yes, we are. Sorry, yes. There is 23 an echo in the background. 24 MS. LEE-CHO: Okay, great. So you touched on -- is 25 there an echo?</p>



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<p>29</p> <p>1 HEARING EXAMINER: Let me see. Hold on one second. 2 Okay, how's that? 3 MS. LEE-CHO: Good. 4 HEARING EXAMINER: Okay. 5 MS. LEE-CHO: You touched upon this already a little 6 bit, but I wonder if you could expand on why the Free Rein 7 Solar Farm, LLC is investing in community solar project on 8 the property. What purpose will it serve? How will it 9 benefit the horse farm operation? 10 MR. CHAPMAN: Yeah, I touched on this earlier, but let 11 me just put a point on it. The property, the farm property 12 is kind of an awkward arrangement. It's kind of long and 13 skinny. It's almost a half a mile from one end to the 14 other. We will be looking at some drawings in a moment. So 15 the riding activity is kind of concentrated on the -- it 16 would be the southwest part of the property, but the 17 property does extend pretty far to the north and to the 18 east. 19 And so -- and that pasture effectively it's just horse 20 pasture, is kind of lightly used. Effectively we have more 21 land than we really need for the amount of horses that we 22 are comfortable with. We could potentially pack in more 23 horses, but for various reasons, that's not the answer for 24 us. We think we've got the right amount, kind of a 25 comfortable amount that we can manage now.</p>	<p>31</p> <p>1 power to other subscribers, will be providing a land lease, 2 substantial land lease payments again for that 25 years or 3 as long as the solar is on the land, on the farm's land, 4 we'll be paying those land lease payments. And I think I -- 5 let me just touch on it a little, the solar project will 6 provide funds for other improvements on the farm including 7 fencing and access and a few other things. 8 MS. LEE-CHO: All right, great. At this point Ms. 9 Byrne, I'm going to ask Ethan Pacifico who is a member of 10 our Bowman team to share his screen and manage the exhibits 11 for us. 12 HEARING EXAMINER: Sounds good. Sounds good. 13 MS. LEE-CHO: So what you're looking at here is Exhibit 14 20b, which is the existing conditions plan. And I'd like -- 15 I've asked Mr. Chapman to -- using this -- using Exhibit 20b 16 on the screen, if you could just please describe the 17 location of the existing uses and improvements on the 18 property. 19 MR. CHAPMAN: I will, yes. And it's probably very 20 small on your screen, but I think for this purpose I can 21 probably just describe what all the areas are without really 22 needing to read the words. 23 MS. LEE-CHO: Well, if you -- if we can have Ethan -- 24 can you -- 25 MR. CHAPMAN: Yeah, that's perfect. All right.</p>
<p>30</p> <p>1 So effectively we've got some excess land that as I 2 said earlier, we're trying to figure out how to make it -- 3 how to make it more productive economically. So we started 4 out looking at solar as a way to offset our electricity 5 costs. Again with the experience of the owners, we started 6 looking at different places on site that we can place at 7 solar such as rooftops. Turns out we would have to build 8 that we would have to replace our roofs before we can put on 9 solar. So that would be massively expensive. But maybe we 10 will get to that someday. 11 But then that led us to look at this project to mount 12 panels on the ground, on pasture that is low value to us and 13 distant from the main riding area. So again, two important 14 contributions. The solar project will be supplying all of 15 the farm electricity needs for 25 years. So if you can 16 imagine all of us will be subject to probably increasing 17 utility rates as time goes on. And it's a pretty major cost 18 for the farm. Even though we don't -- we're not massive 19 electricity consumers, still there is lighting, fans, and 20 other things that go on. So that's going to be a meaningful 21 economic contribution. And it protects the farm from price 22 escalation. Who knows where things will go in the future? 23 And then second, the land lease payments. And you 24 observed -- earlier you got that right that the solar 25 project will be paying out of the revenues from selling</p>	<p>32</p> <p>1 MS. LEE-CHO: Thank you. 2 MR. CHAPMAN: So Ethan, if we could just start with the 3 entrance road to where it says Riggs Road there. So this -- 4 the property basically is at the intersection of Riggs Road 5 which you can see there where the cursor is kind of runs 6 east-west, and then Zion Road, which is the other kind of 7 cross street that runs off to the north and east. The 8 entrance, the main entrance to the farm and the main riding 9 and activity area is -- you can go back over to the entryway 10 there. Yes. 11 So there is an entry road. That is really the only 12 access into the property from any public road. So that's 13 where all the riders, and contractors, and employees come 14 in. That area now where the buildings are, there is two 15 main horse barns in each of those can house about 30 horses 16 or stalls. And then there's a large riding, indoor riding 17 arena that's in that same area that is used for lessons and 18 competitions. 19 If you go a little further to the north Ethan, there is 20 a couple of other buildings there. There is a shop and what 21 we call a hay barn, which is just a big storage shed for hay 22 and tractors. There is another -- other small horse barns 23 in that area. And then surrounding that, those buildings, 24 are the main pastures. So as you go to the west -- I'm 25 sorry, go to the east for Zion, there's a couple of big</p>

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<p>33</p> <p>1 pastures there, their fenced off.</p> <p>2 And then as you go to the north we have horses that are</p> <p>3 in those pastures as well. And if you just stay here for</p> <p>4 second Ethan -- and so as you go further to the north, and</p> <p>5 north is up in this drawing. So straight up is due north.</p> <p>6 The northern tier of the property is pretty distant. It's a</p> <p>7 quarter-mile actually from the horse buildings. The riders</p> <p>8 have to go out and fetch the horses when they get ready to</p> <p>9 ride. And sometimes that's a major undertaking if the</p> <p>10 horses are wondering way up there to the north.</p> <p>11 And we have to mow and maintain and is just -- is more</p> <p>12 land than we really need. So that is the area, if you could</p> <p>13 just circle Ethan, the area where were going to -- and were</p> <p>14 going to show you some other drawings where we're going to</p> <p>15 actually put the solar. Yeah, that's a little bigger than</p> <p>16 what it is. But that's generally the area where we're going</p> <p>17 to put the solar array.</p> <p>18 So let me talk about the neighbor -- the broader area.</p> <p>19 So to the north --</p> <p>20 MS. LEE-CHO: Well Mike, before you do that.</p> <p>21 MR. CHAPMAN: Oh, go ahead.</p> <p>22 MS. LEE-CHO: Before you do that let me queue it up for</p> <p>23 you.</p> <p>24 MR. CHAPMAN: Go ahead.</p> <p>25 MS. LEE-CHO: Are you familiar with the need to define</p>	<p>35</p> <p>1 a number of homes that front on Riggs Road. There are six</p> <p>2 or eight homes along Riggs. And it's fairly low density and</p> <p>3 property sizes, lot sizes that probably range from maybe a</p> <p>4 quarter acre up to maybe an acre. And then as you kind of</p> <p>5 circle around, we'll go around clockwise.</p> <p>6 On the west side of the facility there, there is</p> <p>7 actually a National Guard center that's located there. And</p> <p>8 that's a -- I'm not exactly sure what all the activities</p> <p>9 that take place there, but there is National Guard</p> <p>10 equipment. I think they do some training there. And</p> <p>11 actually further to the west outside of this outline is a</p> <p>12 former -- it's a military installation. It's a former Nike</p> <p>13 missile defense, air defense site. I believe it's been</p> <p>14 decommissioned. I'm not really sure what goes on over there</p> <p>15 either, but it's a fenced off, still some sort of a military</p> <p>16 use there.</p> <p>17 Back inside the yellow, the thick yellow line you have</p> <p>18 to the northwest, you have -- the road there is called</p> <p>19 Ripple Mead. And I think there is also -- it goes by the</p> <p>20 name of Fair Hills. So there's a number of homes there.</p> <p>21 They're fairly low density. Lot sizes are a little bigger.</p> <p>22 So it's a residential neighborhood. As you can see there's</p> <p>23 a number of lots that front the -- that we share that</p> <p>24 northwestern border, the farm shares a northwestern border</p> <p>25 with those homes.</p>
<p>34</p> <p>1 the surrounding neighborhood when assessing potential</p> <p>2 impacts with regard to conditional use proposals?</p> <p>3 MR. CHAPMAN: Yes, I am. Yes.</p> <p>4 MS. LEE-CHO: And do you agree with the surrounding</p> <p>5 neighborhood that has been outlined and defined by the</p> <p>6 technical staff in the staff report on page 5 which is</p> <p>7 Exhibit 25? And I will at this point ask Ethan to bring up</p> <p>8 Exhibit 25 and show page 5 of the staff report. And while</p> <p>9 we're looking at that, then ask you, do you agree with the</p> <p>10 outline in yellow which is what technical staff has</p> <p>11 determined to be the surrounding neighborhood for this</p> <p>12 application?</p> <p>13 MR. CHAPMAN: Yes, I do.</p> <p>14 MS. LEE-CHO: And can you go ahead and describe what</p> <p>15 uses exist within that outline?</p> <p>16 MR. CHAPMAN: Yes. Yes, I will. So what you're</p> <p>17 looking at here again is the farm property which is outlined</p> <p>18 in red and then the broader neighborhood definition as</p> <p>19 envisioned by the county staff in yellow. So again you have</p> <p>20 the -- there are residential areas that are surrounding the</p> <p>21 property.</p> <p>22 Again, it's an 84 acre -- the red area is 84 acres.</p> <p>23 It's kind of rolling hills, pasture, and the buildings we</p> <p>24 talked about near the pond on site. Along Riggs Road on the</p> <p>25 southern end of this drawing, we can start there. There are</p>	<p>36</p> <p>1 I will say, I don't know if this the moment, but we've</p> <p>2 done quite a bit of outreach with our neighbors. We've held</p> <p>3 several meetings. I've spoken personally with most of the</p> <p>4 neighbors. It's like on the order of 25 that have direct,</p> <p>5 sort of direct contact with the farm. We hosted a meeting</p> <p>6 last summer. We have done several -- a couple of walking</p> <p>7 site tours describing what's going on. So we've done I</p> <p>8 think a good amount of outreach to our neighbors to make</p> <p>9 sure they understand what we're planning.</p> <p>10 And as we continue to describe the neighborhood on the</p> <p>11 north side, right -- Ethan, yeah. Let's talk about the</p> <p>12 wetlands. So there is a -- from the pond running north in</p> <p>13 the drawing is a small creek and there's a low kind of</p> <p>14 wetland area that then extends north from our site. And so</p> <p>15 that's exactly where the cursor is. There's a small creek</p> <p>16 there in some kind of squishy, marshy area that we've had to</p> <p>17 be very careful to design around. And we'll talk about the</p> <p>18 way that that's affected the layout and the whole project to</p> <p>19 make sure that we are protecting those wetland areas. But</p> <p>20 they extend there to the north.</p> <p>21 And then to the north of this area, is just very --</p> <p>22 kind of rolling hills and very large tract I would say</p> <p>23 either residences were kind of semi-farming that's to the</p> <p>24 north. On the -- again, part of the neighborhood tucked in</p> <p>25 the red outline are two homes over by Zion. Ethan -- there</p>

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<p>37</p> <p>1 we go. There's two homes there, too of our neighbors. And 2 one of those folks is on the call today. And I think that 3 was a historic actual home that owned -- with the person 4 that owned a lot of this property going back many years. In 5 one of those is a historic property that's also been 6 addressed in our development activity. 7 And then over on the east side of Zion is -- it's a 8 landscaping and nursery tree farm over there. So that's 9 kind of in that -- they are in that business. So that's 10 kind of the neighborhood. Those are the neighbors. Again, 11 we've spoken to most of them and I think we've made efforts 12 to make sure everybody is -- understands what the 13 developmental activities are going to be. And we'll 14 continue to do that as we go forward as we get into 15 construction. Plans are to make sure everybody is aware of 16 our construction schedule and try to minimize disruption for 17 the short amount of time that we will be in conflict. 18 MS. LEE-CHO: Great, thank you. At this point Ethan, I 19 would ask you to bring up Exhibit 20c and 20d to help us 20 identify the location of the solar farm. Great. So these 21 are the conditional use site plans. The site, because of 22 its size, has been split up into two separate plans with 23 match lines. So this is -- 20c is the northern section of 24 the property. And 20d would be the southern half of the 25 property. Mike, using these exhibits, can you please</p>	<p>39</p> <p>1 We're going to tap into the pond that is on-site for 2 emergency fire protection water if that's ever needed. 3 And then as we go over to the east, the electrical 4 interconnect will happen between the solar array and Zion 5 Road. And we'll provide some more detail about how that's 6 going to work. But the solar project needs to have an 7 electrical interconnection with Pepco so that it can deliver 8 its power out into the Pepco -- deliver to Pepco and to 9 Pepco's local distribution system. And there are existing 10 local power lines that run along Zion Road. And those will 11 be the lines we'll be tapping into to connect the project to 12 Pepco. 13 So there's some work area that is over there by Zion 14 Road that is part of our -- part of the limits of 15 disturbance. We've actually -- are planning to do an 16 underground, what they call directional drill to drill under 17 the wetlands. Let me get to the wetlands. 18 MS. LEE-CHO: Okay, Mike, let me ask you very specific 19 questions and then -- so that we can direct Ms. Byrne's 20 attention one by one instead of just a summary. 21 MR. CHAPMAN: Sure. 22 MS. LEE-CHO: Ethan, could you kind of get closer to 23 the solar fields? And in particular I'd like to show Ms. 24 Byrne's the location of the transformer equipment pad. 25 MR. CHAPMAN: Right.</p>
<p>38</p> <p>1 identify the location of the proposed solar farm which we 2 are defining as the conditional use area on the property? 3 MR. CHAPMAN: Sure. There's a lot going on in this 4 drawing, but this is where all the information -- we can 5 talk about all the many aspects of the project. So starting 6 with the solar array itself, or the array area, it's in the 7 center of the drawing. Those are the black lines that are 8 running horizontally. Actually that's in an east-west 9 direction. And the -- and so that's where we're planning to 10 put the actual solar generating equipment and the electrical 11 equipment that goes along with it. 12 It's important to note the purple outline, that's the 13 limit of disturbance outline, LOD. I want to make a 14 distinction here because there's 2 acreage numbers that 15 we've been referring to here. The actual footprint of the 16 solar farm is the 4.92 acres. That's what's inside the 17 purple line that is containing the black lines going east- 18 west. Those are the solar panels. So that's essentially 19 the footprint of the solar project itself. 20 Then there's some other facilities that are included in 21 the broader limit of disturbance that takes us back up to 22 the 7.5 number. That includes the access road which 23 stretches back to the west. And that actually continues on 24 to the other drawing. There's water -- we don't have to go 25 back there just yet, Ethan. So there's a water supply line.</p>	<p>40</p> <p>1 MS. LEE-CHO: So Mike, can you just speak to that first 2 and also while you're at it, clarify the height of the array 3 structures? 4 MR. CHAPMAN: Sure, okay. So the array structures as 5 you can see, you can see it in a little bit more detail now. 6 Possibly you've seen these already out in the world. You'll 7 see these ground mounted solar panels in different places 8 now. There are a couple of installations in Montgomery 9 County already. So there are steel kind of rods or pole 10 structures that are driven into the ground. And there's a 11 steel rack that the solar panels are mounted onto. 12 These are very much the same solar panels that you see 13 on people's rooftops. They're just mounted on the ground. 14 So they are the black or dark blue panels that again are 15 appearing quite a bit on people's rooftops. They're just 16 now mounted on a steel rack. Typically they are arranged in 17 this east-west orientation because the southern exposure is 18 the best -- has the best pickup of solar energy. 19 So they are generally -- even though they look like 20 they're facing straight up, they are generally facing at 21 about a 25 degree angle from horizontal facing south because 22 that's the optimal, or generally the optimal direction that 23 they want to point to pick up the maximum amount of solar 24 energy. And regarding the height, most -- there's two kind 25 of fundamental designs for those, or approaches to those</p>

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<p>41</p> <p>1 racks and those mountings. 2 One is what they call a fixed tilt where the panels are 3 mounted in a fixed manner that never changes at like a say 4 in like maybe a 25 degree angle from horizontal. So they 5 are just kind of slanted towards the sun, so to speak, 6 towards the southern sky so to speak. And then there's 7 another approach which has -- where the panels can actually 8 be equipped with a motorized tracking device that will 9 change that angle to follow the sun as it travels across the 10 sky during the day, and maybe more importantly seasonally 11 because the angle of the sun changes. It's more overhead in 12 the summer and more in the southern hemisphere in the 13 winter. 14 So we will be looking at using a single axis tracker. 15 Probably will not do that, but just wanted to make sure it's 16 mentioned. And if it is movable then the top of the panels 17 could be, I think we put in our application 12 feet at a 18 maximum. If they are almost vertical they could be up to 12 19 feet. That would really only be vertical if there was a 20 storm or there is kind of a storage emergency orientation. 21 So most of the time they would be kind of tilted, again, 22 tracking the sun. 23 The electrical equipment that we want to point out is 24 at the bottom of this drawing. The dark shaded is an access 25 road. And then above that you can see these little boxes.</p>	<p>43</p> <p>1 will match the voltage of the Pepco transmission lines. So 2 that's called a step-up transformer. Again, you may see 3 these around town. They tend to look like green boxes 4 sitting on a concrete pad, kind of a 6 x 6 cube. We will 5 probably paint -- I don't know if we will paint this one 6 green or paint it white. But that's kind of the cube or the 7 square box that you see there. 8 And then there is another component called switchgear 9 which is basically a circuit breaker or a series of circuit 10 breakers and metering and some electrical control equipment 11 that is also a third kind of element. And we're looking at 12 a battery storage element too that could fit in there as 13 well. So those are kind of the electrical, key electrical 14 equipment that will then interface with the Pepco grid. 15 MS. LEE-CHO: Great. At this point maybe we can -- oh, 16 before I leave this image, could you just clarify what we 17 are seeing in terms of the lines and the X's that surround 18 the solar field? 19 MR. CHAPMAN: Right. So those are fence lines. There 20 will be a chain-link fence that will surround the entire 21 site. It will be 6 feet tall. It will be that black coated 22 fencing that helps it blend into and not stand out as a 23 silvery fence. So that will surround the entire site. That 24 will provide security and also keep the deer out and define 25 the actual solar array area, make it safe.</p>
<p>42</p> <p>1 They are -- there's a couple of pieces of equipment that 2 consolidate the electric power that's generated by all these 3 panels. So all the panels are converting sunlight into 4 electricity and there will be underground, for the most part 5 underground cables that will all tie into the central 6 location. 7 And to get a little technical, so all the panels are 8 generating direct current power. And that power needs to be 9 transformed into alternating current power to be able to tie 10 into the Pepco and export into the Pepco lines. So there's 11 a device called an inverter that again, any home that has 12 solar panels has one of these probably in their garage were 13 hanging on the side of their house. But it's a device that 14 transforms that direct current into alternating current. So 15 it's just a very well-known technology. 16 And so one of those -- I think that little strip -- 17 well, one of those boxes is the inverter. There is also a, 18 was called a switchgear cabinet. So these are -- the 19 inverters can take different shapes. They could be -- there 20 could be a row of them maybe about 10 feet long and about 5 21 feet high. They can also be mounted or consolidated 22 together and kind of like a 6 x 6 cube. 23 There will be a step-up transformer. So the voltage 24 that is produced by the panels is a lower voltage. That 25 needs to be transformed into a higher voltage so that it</p>	<p>44</p> <p>1 MS. LEE-CHO: At this point, if we could Ethan, ask you 2 to pan to the right of the plan and show the point of 3 interconnection with the array, with the Pepco pole. And at 4 this point Mike, if I could ask you to describe how that 5 interconnection will be achieved. 6 MR. CHAPMAN: Sure. At the very far right hand side of 7 this drawing here is Riggs Road. And running along the west 8 side of Riggs Road which is -- well, so the black, the thick 9 black line is the Free Rein Farm Property line. So inside 10 that is the Free Rein property. In this area we are bound 11 by Riggs Road. On the property side, the Free Rein side of 12 Riggs Road is an existing local distribution line like you 13 see all over the county, wood poles with a cross arm and 14 three wires on top. It happens to be a 13.6 KV voltage 15 line, very normal, very typical. So that is the point where 16 we will be connecting to the Pepco transmission line. So 17 what will happen is Pepco will -- and Pepco is in the 18 process of designing this interconnection along with our 19 engineer Prime Partners. There will be -- there will simply 20 be what they call a tap into this existing transmission line 21 which is disconnecting the three wires to that -- to the 22 existing distribution line, and those three wires then will 23 travel west along the -- you can see there is a black line 24 that has UGE, it's I think the little dashed black line, 25 which is underground electrical.</p>

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<p style="text-align: right;">45</p> <p>1 So what's going to happen is that there will be three 2 wood poles that will be adjacent to Riggs Road. And then, 3 at that point, we are planning an underground directional 4 drill process where -- and this is another process that is 5 commonly used in the county now. It's relatively new 6 technology so we had the choice -- and we will get to the 7 wetlands in a moment. But the green area that's in the 8 middle of the drawing here is a stream and wetland area that 9 the County was a very -- you know, we -- it's an area that 10 needs to be protected. There's boundaries that we defined 11 around this area that are in compliance with the county and 12 state regulations. But it's about a -- almost 300 foot span 13 from the edge of each -- one boundary to the other. And 14 that's kind of a long run for an overhead power line. You 15 can do it, you just have to install bigger poles.</p> <p>16 The county did not want any construction at all inside 17 that or affecting that wetland streaming area. So as a way 18 to solve that issue and that problem we will do this 19 directional drilling process where we will put a rig 20 probably on the east side where you can see that box. 21 That's the kind of what we define as a laydown area. And 22 then there will be a drilling machine there that will drill 23 under wetlands, under the stream. This is commonly done. 24 And then, it will pop out on the other side.</p> <p>25 And then, we'll have a little junction box on the other</p>	<p style="text-align: right;">47</p> <p>1 on the plan that purple -- no, where you were. Close in. 2 Thank you. Can you just get closer to the - so you see the 3 LOD, the purple line on either side of the wetlands area 4 that Mr. Chapman was talking about. So in fact, this 5 underground circuit directional drilling method is 6 considered not to be limits of disturbance on the ground. 7 So it's actually, you're going underground but it is not 8 counted toward the LOD. I just wanted to clarify that.</p> <p>9 HEARING EXAMINER: Thank you.</p> <p>10 MS. LEE-CHO: All right. So then, at this point, I 11 think we are ready to have Mr. Chapman go through some of 12 the specific conditional use requirements of section 13 59.3.72.B.2.</p> <p>14 MR. CHAPMAN. So do we want to just quickly highlight 15 the wetland area?</p> <p>16 MS. LEE-CHO: Go ahead, guests. I thought you had 17 already but go ahead.</p> <p>18 MR. CHAPMAN. Well, just what's on the, the other 19 things that are on the drawing is you can see the green 20 hatch area which are -- has it been designated as a wetlands 21 through our site surveys and the orange and red lines are 22 buffers that are required around those areas that we are 23 being careful to respect and stay out of. There will be 24 protective measures during the construction to limit runoff, 25 and I think probably Bowman will cover that a little bit.</p>
<p style="text-align: right;">46</p> <p>1 side and we'll do a second underground run from that point 2 down to the electrical equipment that I described a moment 3 ago. This is very typical in the industry. The underground 4 electrical lines will be insulated. They will be enclosed 5 in an HDPE high density polyethylene conduit. And again, 6 it's very safe and reliable and it's become -- you know, 7 it's become a tool that is being used in the utility 8 industry quite a bit, both in urban and in rural areas to 9 get around problems. Otherwise, you have to dig everything 10 up and put a pipe in the ground or put an insulator in the 11 ground.</p> <p>12 So this is our solution to the wetland protection 13 issue, and that's how we'll be connecting to the Pepco line.</p> <p>14 MS. LEE-CHO: Okay. Thank you. At this point, I would 15 like to direct Ms. Byrne's attention to Exhibit 19 (b), and 16 that is the interconnect option. That is a document that 17 describes the interconnect options. What Mr. Chapman has 18 just described is the design option being, which is the 19 underground circuit. This is a document that was presented 20 to technical staff with two different options of how to 21 achieve interconnect, and design option B, which is the 22 underground circuit that was just described is what was -- 23 is being required in the project.</p> <p>24 And just as a clarification, if we could go back to the 25 conditional use plan, Ethan, that you had. So you will note</p>	<p style="text-align: right;">48</p> <p>1 So that -- that's a significant design -- was a significant 2 design consideration to make sure that we did the layout 3 that's going to stay out of those, not only the weapon and 4 streaming areas, but also the buffer areas.</p> <p>5 MS. LEE-CHO: Great. Thank you. That's a good 6 clarification. So then, now, we'll move forward to the 7 specifics -- actually, before we leave that, Mike, is there 8 anything you wanted to go back and add about the technical 9 aspect at this point? The construction, timeline? And how 10 the operations, you know just the operation and maintenance 11 of the solar array, how often that will occur?</p> <p>12 MR. CHAPMAN. Yeah, I just quickly touch on that. So 13 the sequence will be good, well, the first thing will need 14 to do is build some fencing to help manage the horses 15 because they are -- you know, the horses are using that 16 pasture to some extent. So we'll build the fencing, then 17 we'll build the road to access the site. And then, we'll 18 have good access into the actual construction site. In the 19 end, the sequence will be installing the metal -- the 20 support structures in the ground and then, mounting the 21 panels, and then we'll be bringing the electrical equipment. 22 So that's kind of the sequence. Kind of in parallel, will 23 be doing this directional drill process and Pepco 24 interconnect. And then, will probably talk about that water 25 in a second. But were going to be installing a water intake</p>

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<p>49</p> <p>1 from the pond that runs it down to the solar site solely for 2 emergency use for fire protection.</p> <p>3 I think I talked about the different pieces, parts and 4 pieces. The construction time will be -- the road 5 construction will take, probably about two weeks. And then, 6 the actual solar construction will take on the order of 7 three months. It's a pretty quick process. It's a pretty 8 straightforward process, and somewhat low-tech other than 9 the electrical connections. That's probably the highest 10 tech part of this. And the directional drill work will -- 11 that will be able to accomplish that in about a week. Maybe 12 two weeks if we do it in two steps, which we probably will. 13 So that's a pretty quick process as well. So yeah, that's 14 the overall construction is on the order of four months-ish.</p> <p>15 MS. LEE-CHO: Okay. So then let's now walk through the 16 specific conditional use requirements under 59.3.7.2.B.2. 17 Subsection A, first of all, it prohibits solar collection 18 systems on certain soils and environmentally sensitive 19 areas. Can you please describe how this project complies 20 with this requirement by use of Exhibit 19. I would ask you 21 to use figure 4 that appears on page 11.</p> <p>22 MR. CHAPMAN. Right. So part of --</p> <p>23 HEARING EXAMINER: This is -- just to clarify Exhibit 24 19 is the statement of justification. Go ahead.</p> <p>25 MR. CHAPMAN. Yeah. So the that's what's being shown</p>	<p>51</p> <p>1 HEARING EXAMINER: So is it like, A is I, B is II, C is 2 III?</p> <p>3 MS. LEE-CHO: Correct.</p> <p>4 HEARING EXAMINER: D is IV? Okay.</p> <p>5 MS. LEE-CHO: Correct.</p> <p>6 HEARING EXAMINER: Thank you. That's very helpful.</p> <p>7 MS. LEE-CHO: I've been confused by that in the past so 8 I wanted to try to --</p> <p>9 HEARING EXAMINER: No, I appreciate that clarification 10 because I would have gone back, looked at my notes and 11 looked at the plans and looked for Roman numerals I, II, 12 III, or IV, so that's excellent. Thank you.</p> <p>13 MS. LEE-CHO: Well, the actual code section and the 14 zoning ordinance uses Category I, II, III, and IV to avoid 15 categories 1 and 2. So it's very confusing.</p> <p>16 All right. Moving on then, can -- are you ready to 17 move on Mike or was there anything else?</p> <p>18 MR. CHAPMAN. No, I think that's the point.</p> <p>19 MS. LEE-CHO: Okay. So under section -- subsection B 20 of 59.3.7.2.B.2, scraping topsoil from the site is 21 prohibited. Does the project comply?</p> <p>22 MR. CHAPMAN. Yes, we do. We'll work with the -- be 23 working with the natural contours of the site. As you may 24 be familiar, topographical drawings, the other curvy lights 25 here are showing different elevation lines in the site. And</p>
<p>50</p> <p>1 in this drawing, this is from the staff report. And the 2 yellow shaded area is the area of the solar array location. 3 The dotted lines is the kind of sweeping, curving lines that 4 you see on this drawing are soil type designations and 5 that's a done by the soil conservation district. I think 6 they've pretty much mapped the county and maybe the whole 7 country in terms of soil types. And part of the -- one of 8 the requirements under the county's solar process as soon 9 referred to, is that we are not allowed to build in certain 10 soil types what they could designate as class I and class II 11 soil types.</p> <p>12 So there's a multitude of soil types and they all kind 13 of fit in these classes. Is that what you can see here is 14 we are essentially avoiding the soil types that are not 15 allowed by the county. So we've carefully designed our 16 layout to avoid the more productive soil types that are 17 being protected.</p> <p>18 MS. LEE-CHO: And just a point of clarification. The 19 plans identify soil types with letters, A, B, C, D, that 20 correlates with Category I, II, III, IV, roman numeral. So 21 the two soil types highlighted --</p> <p>22 Ethan, can you zoom in, please?</p> <p>23 You'll see that the two soil types that are over which 24 the array is located is I-C and 16-B. and so that -- the 25 lettering correlates with Category III and IV.</p>	<p>52</p> <p>1 we will be able to work with the natural contours of the 2 existing site. We have to do any re-grading or you know, 3 changing of that. And then, that's the county is trying to 4 discourage or prevent. With topsoil that is going to be on 5 the road construction, so we have to build a road to comply 6 with County requirements, and the road has certain county 7 requirements that follow along with it. So we will have to 8 remove some topsoil from the roadway, and we will make sure 9 that that is deposited and regraded inside of the limits of 10 the disturbance so that we don't go outside to that.</p> <p>11 MS. CHOO-LEE: Okay. This leads -- that statement the 12 next subsection of the 59.3.7.2.B.2, which is C, subsection 13 C, which requires that grading and any soil removal must be 14 minimized.</p> <p>15 MR. CHAPMAN. Right.</p> <p>16 MS. CHOO-LEE: Did you have anything else to add on 17 that one?</p> <p>18 MR. CHAPMAN. Not really. But I mean we will minimize 19 regrading will be able to follow the contours of the site.</p> <p>20 MS. CHOO-LEE: Okay. And under subsection D of 21 59.3.7.2.B.2, the project must comply with the statement 22 every program under Maryland Code Section 7-306, COMAR 23 205010, and COMAR 2062. How does the project comply?</p> <p>24 MR. CHAPMAN. The project does comply, and will comply 25 with both of these code standards. If I could just describe</p>

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<p>53</p> <p>1 it very briefly, the first one, the 205010 is the net 2 metering time, and that describes the rules and procedures 3 around what's called the metering concept. If I could just 4 describe that a little bit. 5 The concept of it is that for somebody that can produce 6 their own generation, that whatever power they produce can 7 be -- will be netted against their consumption at that 8 location. So if you can think about, in the old days, we 9 don't have them more -- well, everybody still has electric 10 beaters, but now they are digital, you can't really see it. 11 But in the old days they used to be this little spinning 12 disc. And for people that install solar or some other kind 13 of generation if they so -- so in that little spinning disc 14 is the meter and records how much electricity you're using, 15 say your counsel for your business. If you had your own 16 power generation, say you have solar panels on the roof, and 17 you had it sized correctly, it could -- it will -- and 18 you're pretty that power it slow down and so you're using 19 last of the utility power. You're using yourself and 20 generate. And actually, there could be times where your 21 generate more than what you're seeing. And then, that 22 little disk would actually run backwards. So what that 23 does, it just means that whatever production is in the made 24 on-site, is netted against the consumption. So on your 25 bill, you would have your consumption last -- well it would</p>	<p>55</p> <p>1 crediting mechanism again and says that they can no 2 additional fees onto the participants and it gets into 3 billing and how data is managed. 4 MS. LEE-CHO: Great. Thank you. Moving on the under 5 subsection E of 59.3.7.2.B.2 the area underneath the solar 6 facility must be actively used for farming or agricultural 7 purposes. In the code provides and that there are options. 8 Can you please confirm in which manner the project will 9 comply? 10 MR. CHAPMAN. Yes, the project will comply by 11 installing pollinator friendly plant species in accordance 12 with one of the options for complying with this requirement. 13 In our documentation and application will be presented the 14 types of planning the County approved seed mix, we intend to 15 plant, and we will do our best to use industry best 16 practices, which are evolving in this area and to try to 17 find out the ones that actually do the best in this 18 environment. We also intend to try out some different types 19 of plants to see what performs the best in this mix of kind 20 of sun and shade that were going to find on the array site. 21 MS. LEE-CHO: Right. Then, under subsection F of 22 59.3.7.2.B.2 the requirement is that the applicant must 23 provide evidence that the utility company allow for the 24 solar collection system to connect to the utility grid. As 25 a project complied?</p>
<p>54</p> <p>1 be consumption amount would actually be your usage less you 2 what self-generated. So that's the concept of the net 3 metering. 4 And so what this title does is it says basically to do 5 net metering, you have to install what's called a bi- 6 directional meter, that's a new digital meter that can 7 record incoming and outgoing power. And it describes how 8 this credit is developed. And it also says that whatever 9 power is generated has to be priced at the average customer 10 cost. So whatever you're paying, you getting a direct 11 credit against what you're paying. It also has some 12 mechanics about how the billing works, and how things 13 rollover from month to month. 14 So the net metering happens at a -- I'm going on a 15 little bit more, but net metering can happen at a street 16 location like a home or a business. But in the context of 17 this community solar, it's happening on the regional level. 18 So effectively, what's happening the power generated by the 19 community solar is credited back to the customer with that 20 same kind of net metering concept as if the panels were on 21 the roof. 22 And that brings me to the second title, which is 2062. 23 And that describes the Maryland Community Solar Pilot 24 Program, which directed utilities to come up with a 25 framework of how to make it happen. It talks about the</p>	<p>56</p> <p>1 MR. CHAPMAN. Yes. Yes, Pepco has provided a signed 2 approval letter which is in the staff report, approving the 3 project for interconnect. We're having regular immediate 4 with Pepco. We paid a substantial monetary deposit to 5 secure that position with Pepco. 6 MS. LEE-CHO: Right. It is attached as attachment A to 7 the staff court, as well as Exhibit 19 a. in the records. 8 Moving on, go to subsection G, under section 9 59.3.7.2.B.2 the Applicant must provide evidence that the 10 application was submitted to the office of agriculture. Has 11 the project complied? 12 MR. CHAPMAN. Yes. Yes in the letter is attached to 13 the staff report from Mr. Jeremy Chris, Director of the 14 Office of Agriculture. 15 MS. LEE-CHO: Great. Under subsection H of 59.3.7.B.2, 16 the code prohibits a removal of tree landscaping otherwise 17 required attached to the condition of approval of the plan, 18 application, or permit for the installation or operation of 19 which has the -- how does the project comply? 20 MR. CHAPMAN. Yes. The project compliance. There's no 21 previous protection, condition that is on site. 22 MS. LEE-CHO: Under subsection I of 59.3.7.2.B.2 it 23 indicates that unless a disturbance is allowed pursuant to 24 the County forestry regulation, any tree in and on a 25 floodplain, stream buffers, steep slope, critical habitat,</p>

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<p>57</p> <p>1 contiguous forest or historic site, and any champion tree, 2 or other exceptionally large tree must be left undisturbed. 3 How does the project comply? 4 MR. CHAPMAN. We comply completely. There will be no 5 removal that meets any of these criteria that's going to be 6 removed. And I'll just mention we have -- you know, the 7 farm has 100 significant trees. It's a big property, a lot 8 of trees that have been thoroughly documented and included 9 in our forest conservation plan. And it's been -- I think 10 we're going to discuss that later or do you want me to get 11 into that now? 12 MS. LEE-CHO: Well, I mean, I think you can mention the 13 final forest conservation plan includes removal of one 14 unprotected tree, correct? 15 MR. CHAPMAN. Correct. So out of those 100 there's one 16 tree that is in the area where we need to install the access 17 road to meet county access requirements, so there's one -- 18 it's unprotected at the moment, but it did meet the 19 significant tree criteria in our survey. It is in quite 20 poor condition, but it met the criteria nonetheless, so that 21 one -- the one tree will need to be removed. And, then, 22 there will be minimal root impact on six other trees, 23 significant trees all for installation of the access road, 24 but we believe that's not going to harm, really harm the 25 tree. And there's standards and methods that we'll be using</p>	<p>59</p> <p>1 MR. CHAPMAN. No, it's not applicable because there's 2 no neighboring house that is within the 200 feet. But we 3 will be providing voluntary landscaping, screening, to 4 shield the view from the existing homes that are further 5 away and we've developed a way of -- an approach for 6 landscaping that will help -- be assisted by the natural 7 contours of the site. So that's how we'll be handling that. 8 MS. LEE-CHO: All right. And the landscaping plan will 9 be covered by Mr. Greg Eberly so we'll get more detail at 10 that point. 11 Then, under section 59.3.7.2.B.2.L, the hearing 12 examiner's decision must consider the recommendations of the 13 office of agriculture. You previously mentioned that there 14 was a letter from the office of agriculture. Were there any 15 recommendations provided in that letter? 16 MR. CHAPMAN. There were no specific recommendations, 17 but the letter did confirm compliance with existing 18 requirements. 19 MS. LEE-CHO: Great, thank you. Under subsection M of 20 section 59.3.7.2.B.2, the applicant must provide a 21 calculation of the total acreage used for the solar 22 collection system including any required setbacks and all 23 acreage within the fence or shrubbed area. Has the project 24 complied? 25 MR. CHAPMAN. Yes. Yes, as we described earlier, the</p>
<p>58</p> <p>1 to make sure that the root systems are protected. 2 MS. LEE-CHO: Okay. Ms. Byrne, we received in the mail 3 just yesterday the actual planning board approval of the 4 final forest conservation plan. I'm not sure you need it 5 for the record. It probably wouldn't hurt. I can email it 6 separately today. 7 HEARING EXAMINER: Yeah, that would be great. Let's 8 just go ahead. We'll put it in the record, we'll have it as 9 an exhibit, you know, one less thing to worry about. So the 10 record's going to remain open for 10 days anyway for the 11 transcript. So if you want to go ahead and email it to 12 myself and to Nana Johnson we'll make it -- we'll add it as 13 an exhibit and we'll make it the very next exhibit number 14 and we'll add it to the record. 15 MS. LEE-CHO: Okay. Perfect. So then moving on to 16 subsection J of 59.3.7.2.B.2, it indicates that use of 17 concrete is prohibited except for the transformer or 18 electrical equipment pad areas. Does the project comply? 19 MR. CHAPMAN. Yes, we will comply with that. The 20 supports will be directly driven without the use of concrete 21 and we will just use concrete in the areas described here. 22 MS. LEE-CHO: Okay. Under subsection K of 59.3.7.2.B.2 23 screening on the sides of the facility within 200 feet of 24 any neighboring house is required. Is this requirement 25 applicable to the project?</p>	<p>60</p> <p>1 total limits of the service area is 7.52 acres, and just the 2 solar collection area footprint is 4.92 acres. 3 MS. LEE-CHO: And then, finally, subsection in of 4 59.3.7.2.B.2 limits the overall number of acres in the AR 5 zone that's allowable -- has been allowed by the county 6 counsel for solar system collections of 1800 acres. Does 7 the project comply? 8 MR. CHAPMAN. Yes. We understand this is actually the 9 first one that is in the AR zone and so yes, we -- there is 10 substantial excess capacity over and above this one, as we 11 understand it. 12 MS. LEE-CHO: So with that, I will -- I'm done with Mr. 13 Chapman for the moment. I will bring him back at the end. 14 And at this point, I would ask Mr. Carlos Garcia to step up 15 and just briefly address the traffic exemption letter. And 16 before we start with Mr. Carlos, -- well, first, I would 17 ask -- 18 HEARING EXAMINER: You have to swear him in for sure. 19 So we'll go ahead and do that. 20 So Mr. Garcia, could you raise your right hand, please? 21 Do you promise to tell the whole truth and nothing but the 22 truth? 23 MR. GARCIA: Yes. 24 HEARING EXAMINER: Thank you. 25 MS. LEE-CHO: Mr. Garcia, if you can state your</p>



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<p>61</p> <p>1 employer and business address?</p> <p>2 MR. GARCIA: Yes, I work for Bowman Consulting. I work</p> <p>3 out of 947 Myers Road in Richmond, Virginia.</p> <p>4 MS. LEE-CHO: And what is your profession?</p> <p>5 MR. GARCIA: I'm a civil engineer. I specialize in</p> <p>6 traffic engineering.</p> <p>7 MS. LEE-CHO: Ms. Byrne, Mr. Garcia's resume was added</p> <p>8 to the exhibit list. I can go through his --</p> <p>9 HEARING EXAMINER: That's okay. I've had an</p> <p>10 opportunity to review his resume. He's clearly been doing</p> <p>11 this for quite some time, and I'm confident in what he has</p> <p>12 to say.</p> <p>13 MS. LEE-CHO: Great. So with that I would offer him --</p> <p>14 HEARING EXAMINER: Do you want to offer him --</p> <p>15 MS. LEE-CHO: Yes, I would offer him as an expert. An</p> <p>16 expert in the field of transportation planning and traffic</p> <p>17 engineering.</p> <p>18 HEARING EXAMINER: I'll accept him.</p> <p>19 MS. LEE-CHO: Thank you. Mr. Garcia, did you evaluate</p> <p>20 the trip generation of the proposed commuter -- I mean,</p> <p>21 community solar project and prepare an LATR exemption</p> <p>22 letter?</p> <p>23 MR. GARCIA: Yes, correct.</p> <p>24 MS. LEE-CHO: And is that letter in the record as</p> <p>25 Exhibit 9?</p>	<p>63</p> <p>1 MS. LEE-CHO: At this point, I would offer up Mr.</p> <p>2 Garcia for any questions. But I think the exemption letter</p> <p>3 speaks for itself, the load generating use. I think we went</p> <p>4 above and beyond by looking at potential construction</p> <p>5 activity, trips, just so that we understand those issues.</p> <p>6 But it was determined to be exempt from a full traffic study</p> <p>7 by technical staff.</p> <p>8 HEARING EXAMINER: No, I have no questions for Mr.</p> <p>9 Garcia. And again, the report speaks for itself and I</p> <p>10 appreciate him explaining and reiterated how they came up</p> <p>11 with the trips and the level of service. So yeah, I have no</p> <p>12 questions for Mr. Garcia.</p> <p>13 MS. LEE-CHO: Thank you. The next, I would ask Mr.</p> <p>14 Greg Eberly to step up.</p> <p>15 MR. EBERLY: Hello.</p> <p>16 HEARING EXAMINER: Hi Mr. Eberly, could you raise your</p> <p>17 right hand, please? Do you promise to tell the whole truth</p> <p>18 and nothing but the truth?</p> <p>19 MR. EBERLY: Yes.</p> <p>20 HEARING EXAMINER: Excellent. Thank you.</p> <p>21 MS. LEE-CHO: Mr. Eberly, can you please start by</p> <p>22 stating your employer and business address?</p> <p>23 MR. EBERLY: Yeah, I work for Bowman Consulting, and</p> <p>24 the business address is 13461 Sunrise Valley Drive. That's</p> <p>25 in Herndon, Virginia.</p>
<p>62</p> <p>1 MR. GARCIA: Yes, it is.</p> <p>2 MS. LEE-CHO: Can you please walk us through the</p> <p>3 analysis and methodology set forth in the letter?</p> <p>4 MR. GARCIA: So yeah. So in order to prepare the</p> <p>5 transportation exception statement, we contacted the County,</p> <p>6 and we discussed the parameters for the preparation of the</p> <p>7 statement. And they agreed with the proposed parameters so</p> <p>8 the statement was prepared in coordination with the County.</p> <p>9 Basically, for this particular situation, we looked at</p> <p>10 existing conditions, the existing roadway that provides</p> <p>11 access to the facility. We looked at the traffic operations</p> <p>12 of the existing roadway, the equestrian facility, and also</p> <p>13 with the estimated traffic from the proposed solar facility.</p> <p>14 It is estimated that the solar facility will produce</p> <p>15 approximately 16 trips per month. And for purposes of this</p> <p>16 study, in coordination with the County, we assumed two trips</p> <p>17 during the morning peak hour and two trips during the</p> <p>18 evening peak hour. So with that, we looked at the existing</p> <p>19 and proposed conditions, and the results indicated the</p> <p>20 existing roadway is expected to operate at a level of</p> <p>21 service A during the existing conditions and a level of</p> <p>22 service A with the proposed conditions. Basically, what</p> <p>23 that says -- it indicates that there are not any expected</p> <p>24 impacts on the existing roadway system as a result of the</p> <p>25 proposed solar facility.</p>	<p>64</p> <p>1 MS. LEE-CHO: And what is your profession, or field of</p> <p>2 expertise?</p> <p>3 MR. EBERLY: I'm a professional landscape architect,</p> <p>4 licensed in Maryland, DC, and Virginia. I'm also a</p> <p>5 certified arborist. I have nearly 20 years of experience in</p> <p>6 both fields.</p> <p>7 MS. LEE-CHO: Thank you. Again, Mr. Eberly's resume</p> <p>8 was offered in conjunction with the prehearing submission</p> <p>9 that was submitted. Based on his resume, I would offer him</p> <p>10 as an expert in the field of landscape architecture and</p> <p>11 force conservation as well.</p> <p>12 HEARING EXAMINER: He is admitted.</p> <p>13 MS. LEE-CHO: Thank you. Can we begin, Mr. Eberly, by</p> <p>14 looking at the NRIFC, which is Exhibit -- which exhibit is</p> <p>15 that, I'm sorry? Let's look at the NRIFC. Exhibit 11, 11c</p> <p>16 and d.</p> <p>17 MR. EBERLY: Yeah, 11c would be good, I think.</p> <p>18 MS. LEE-CHO: 11c. Okay. So if you could, using the</p> <p>19 NRIFC, please identify and describe for the record notable</p> <p>20 features of the property.</p> <p>21 MR. EBERLY: Sure. Mike sort of touched on this</p> <p>22 earlier, but the overall property is 82.39 acres, it's an</p> <p>23 irregularly shaped parcel that is about a half a mile long</p> <p>24 from north to south. As mentioned before, it that bounded</p> <p>25 by existing single-family residential to the north, east,</p>

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<p>65</p> <p>1 and west, Zion Road to the east, and Riggs Road to the 2 south. Per the NRIFSD the property contains a number of 3 sensitive environmental areas including existing topos -- 4 topography, soils, forests did areas, streams, wetlands, and 5 associated buffers. All of which are being avoided by the 6 project.</p> <p>7 First, we can take a look at the slopes, and just touch 8 on those briefly. You know, the property generally slopes 9 from high points on the western portion of the site towards 10 the existing streams that that were touched on before, and 11 pond areas. Very generally, the slope west to east. The 12 vast majority of the site consists of gentle slopes that 13 range from 0 to 14.99 percent, with a few small pockets on 14 site that are 15 percent slope and greater.</p> <p>15 If we -- Ethan, could you zoom in a little bit?</p> <p>16 The areas that are 15 percent and greater are the ones 17 that are hatched in the light gray and the dark gray areas. 18 And for the record, you know, slopes of 15 percent or 19 greater on site will not be disturbed with the proposed 20 development.</p> <p>21 Next, we can sort of touched on some of the soils, and 22 I think, Mike had briefly touched on this before but there's 23 a different soils on the site, including soils 1B and 5B 24 that are classified as Category II soils in the USDA Soil 25 Survey. As we already know, the development of a solar</p>	<p>67</p> <p>1 in the Northeast turn portion of the site there's an 2 intermittent stream with an associated 125 foot buffer that 3 can be illustrated with the red line. Within that 125 foot 4 stream buffer, in that portion of the property there are 5 also wetlands co-located. And those 40 foot buffers are 6 located inside of the 125 foot stream buffer. So they 7 overlap.</p> <p>8 Another highlight here, this blue line is what we call 9 the primary management area. Due to the proximity to the 10 tributary streams, the property is located within the 11 Patuxent River primary management area, and that is 12 highlighted with that 650 foot offset blue line. The 650 13 foot PMA consists of stream valley buffer and the transition 14 area. Overall, impervious notes within the PMA transition 15 area of a development site should not exceed 10 percent. 16 And will touch on that in another part of the testimony, a 17 little later. But we are not over 10 percent impervious.</p> <p>18 Overall, the solar array feel, the solar management 19 facilities and associated site infrastructure are placed 20 within a location in the site that allows for maximal usable 21 open pasture land with the farms ongoing equestrian use, as 22 Mike had stated before, while avoiding impacts of slopes 23 greater than 15 percent, existing forested areas both the 24 County required 125 foot stream and 40 foot wetland buffers, 25 and USDA Category I and II soils.</p>
<p>66</p> <p>1 array collection system is prohibited on the USDA Category I 2 and category II soils, so the proposed development has 3 avoided both soils 5B as shown in this -- can you show 4 Ethan -- we already touched on this, but 5B near the stream 5 buffer, and 1B up to the north. Those are the areas being 6 avoided specifically by the proposed development.</p> <p>7 MS. LEE-CHO: Okay. Did you have anything in addition 8 on the NRI?</p> <p>9 MR. EBERLY: Yeah. I had a couple of more things. Is 10 that all right?</p> <p>11 MS. LEE-CHO: Go ahead.</p> <p>12 MR. EBERLY: So there's 5 existing forest stands on the 13 side that comprise approximately 9.74 acres. Within and 14 adjacent to those forested areas, as Mike mentioned before, 15 there are almost 100 specimens and significant trees. 16 There's 39 specimen trees, and 37 significant trees on the 17 property. Only one of the specimen trees, T15 on the plan, 18 I don't know if you can highlight that one, Ethan, we're 19 proposing to have removed, and it's addressed and outlined 20 in the treatment variance that we're going to be addressing 21 later in the testimony.</p> <p>22 A couple of the other features, there are, in the 23 central portion of the site there are two non-tidal wetlands 24 with 40 foot buffers. They can be illustrated by the green, 25 and the orange 40 foot buffer lines around them. And then,</p>	<p>68</p> <p>1 MS. LEE-CHO: Okay. Great. If we can move on to the 2 final forest conservation plan, Exhibit 22, I do have a 3 couple of additional specific questions for you.</p> <p>4 MR. EBERLY: Sure. Ethan, I think this probably is 5 the best one.</p> <p>6 MS. LEE-CHO: All right. So before I have you describe 7 the final forest conservation plan, maybe just as a 8 foundational fact, can you confirm that the existing horse 9 farm is an agricultural use, while it is part of the 10 property, is considered exempt from the forest conservation 11 calculation?</p> <p>12 MR. EBERLY: Yes, correct.</p> <p>13 MS. LEE-CHO: And on what basis is that?</p> <p>14 MR. EBERLY: Because there's 74, almost 75 acre portion 15 of the sign is to remain agricultural use, while our new 16 proposed 7.52 acre development will be used as the solar 17 component.</p> <p>18 MS. LEE-CHO: So does the County forest conservation 19 regulations allow for an exemption of ongoing agricultural 20 use from forest conversation while requirements?</p> <p>21 MR. EBERLY: Yes, they do.</p> <p>22 MS. LEE-CHO: And is that the basis upon which the 23 projects final forest conservation plan was reviewed and 24 approved?</p> <p>25 MR. EBERLY: Correct. An exemption was given for the</p>

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18 (69 to 72)

<p>69</p> <p>1 75 acres of farm to remain agricultural use, and enforce 2 conservation calculations based upon limits of disturbance 3 and net tract area of 7.52 acres. 4 MS. LEE-CHO: And then, is there anything else that you 5 want to add to your testimony with regard to the final 6 forest conservation plan, anything of note? 7 MR. EBERLY: No. I think we hit on most of it. I 8 think, you know, just to summarize the 7.52 acre limits of 9 disturbance require 1.5 acres of planting to be done on 10 site. And Ethan, if you can zoom in a little bit, we have 11 provided two separate afforestation planting areas on the 12 site. I don't believe they're shown on this portion of the 13 plan. Ethan, can you go to the next sheet? But those areas 14 are going to be planted with a combination of 1 inch caliper 15 trees and 18 to 24 inch shrubs per the afforestation 16 regulations. Those areas are going to be protected in a 17 Category I easement, and permanently protected with forest 18 conservation easement and signage. 19 And as you can see, there are two areas. Area 1, which 20 is 1.14 acres, that is hatched in the blue. The blue stripe 21 patch. And then, there is another area within the wetlands 22 to the northeast. Afforestation area number two which is 23 .36, which gives you your total of 1.5 acres of 24 afforestation that are being provided on site to meet forest 25 conservation requirements.</p>	<p>71</p> <p>1 ask you to please walk us through the projects proposed 2 landscape plan. 3 MR. EBERLY: Sure. Ethan, if you could open, I 4 believe -- yes, there you go. So just to outline, there is 5 not necessarily any landscape required for the zoning code. 6 Screening is not required because the facility is located 7 more than 200 feet away from any neighboring property. 8 However, the Applicant has decided to propose screening to 9 the west of the solar array, and that can be, again, shown 10 as -- where Ethan is highlighting right there, it's on the 11 uphill side of the solar array, so it is going to provide a 12 screening to the neighbors' residences to the northwest. 13 The proposed screening consists of 8 foot height to 14 evergreen trees, and 18 to 24 inch deciduous and evergreen 15 shrubs, and a mix of perennial groupings. 16 In addition to this screening we are also proposing a 17 pollinator seed mix, as Mike had touched on before, for 18 below the solar array, and in the solar array field. And 19 those areas can be highlighted by the hatched area sort 20 of -- Ethan, if you can zoom in, sort of the crosshatched 21 areas, all within those solar -- the solar array. And 22 that's where the seed mix will be going. The areas that are 23 the small dots, those areas are going to be used for access 24 and that they're going to be turfed areas for any access 25 that may be needed for maintenance and things of that</p>
<p>70</p> <p>1 MS. LEE-CHO: So this was all part of the final forest 2 conservation plan approval that was just received from the 3 planning board, correct? 4 MR. EBERLY: Correct. 5 MS. LEE-CHO: And then, you've already discussed the 6 projects compliance with the applicable impervious area at 7 requirement of the Patuxent River primary management area, 8 correct? 9 MR. EBERLY: Correct. 10 MS. LEE-CHO: And that is -- the percentage that can't 11 be exceeded is 10 percent? 12 MR. EBERLY: Correct. It's 10 percent, and we're at 13 approximately 8.4 percent so we are under. 14 MS. LEE-CHO: Did you prepare the treatment variance 15 and justification that is in Exhibit 22k and is part of the 16 final conservation plan approval by the planning board? 17 MR. EBERLY: Yes, ma'am. 18 MS. LEE-CHO: All right. Do you agree with technical 19 staff numbering of the tree variances requested by the 20 project, and ultimately approved by the planning board? 21 MR. EBERLY: Yes. Yes I do. 22 MS. LEE-CHO: And that summary is provided on pages 19 23 to 24 of the staff report, which is Exhibit 25, just for the 24 record. I think, at this point we can just move on to the 25 landscape plan, which is Exhibit 21a through d. And I will</p>	<p>72</p> <p>1 nature. 2 Also, the third portion of the landscaping, we've 3 also -- and that will be touched on later in the storm water 4 management conversation. But we've also provided shrubs and 5 grasses and at two proposed bio retention areas on site. So 6 those will be landscaped as well. Yeah, there you go. So I 7 think overall, we have provided screening, we have provided 8 a seed mix in the solar array that should grow to about a 9 height of about 3 feet with a mix of perennial species and 10 grasses, and then we've also provided landscaping for all 11 bio retention facilities on site as well. 12 MS. LEE-CHO: Thank you. I have nothing further for 13 Mr. Eberly unless, Ms. Byrne, you have any questions for 14 him? 15 HEARING EXAMINER: No. Very clear. Thank you. 16 MR. EBERLY: Thank you. 17 MS. LEE-CHO: Next up we have Brad Glatfelter. 18 MR. GLATFELTER: Yeah. 19 HEARING EXAMINER: Mr. Glatfelter, could you raise your 20 right hand? 21 MS. LEE-CHO: Would you turn on your camera? 22 HEARING EXAMINER: He's on. There we go. Could you 23 raise your right hand, and do you promise to tell the truth, 24 the whole truth, and nothing but the truth? 25 MR. GLATFELTER: I do.</p>

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19 (73 to 76)

<p>73</p> <p>1 HEARING EXAMINER: Thank you.</p> <p>2 MS. LEE-CHO: Can you please state your employer and</p> <p>3 business address for the record?</p> <p>4 MR. GLATFELTER: My name is Brad Glatfelter. I work</p> <p>5 for Bowman Consulting. My primary offices in Herndon</p> <p>6 Virginia, the same as Greg's, 13461 Sunrise at Valley Drive,</p> <p>7 Suite 500, although we do have a new office in Rockville.</p> <p>8 MS. LEE-CHO: And what is your profession?</p> <p>9 MR. GLATFELTER: I am a licensed civil engineer.</p> <p>10 MS. LEE-CHO: Mr. Glatfelter's resume was also included</p> <p>11 as part of a prehearing submission, and on that basis I</p> <p>12 would offer him as an expert in the field of civil</p> <p>13 engineering.</p> <p>14 HEARING EXAMINER: Accepted and admitted.</p> <p>15 MS. LEE-CHO: Thank you. Brad, can you first, walk us</p> <p>16 through using Exhibit 23 if you can describe how the project</p> <p>17 will comply with the Counties storm water management</p> <p>18 requirement?</p> <p>19 MR. GLATFELTER: Given the low density and low</p> <p>20 intensity use that we're proposing, the majority of our</p> <p>21 stormwater management goal was to not disturb land. In</p> <p>22 doing so, we have limited the requirement for -- sorry, I</p> <p>23 wait for Ethan to pull it up. There we go. We have limited</p> <p>24 the requirement for stormwater on our ESV volume 2 just</p> <p>25 under 3000 cubic feet -- at 2600 -- 2,626 cubic feet. We</p>	<p>75</p> <p>1 didn't know that there was a debate going on. So it's good</p> <p>2 to put that on the record that the County does not consider</p> <p>3 them to be impervious.</p> <p>4 MS. LEE-CHO: Just the pole structures into the ground,</p> <p>5 that point of intersect is what is counted as impervious in</p> <p>6 the county.</p> <p>7 HEARING EXAMINER: Thank you.</p> <p>8 MS. LEE-CHO: And then moving on to the fire department</p> <p>9 access and water plan approval, that is Exhibit 20. Can you</p> <p>10 please walk us through just the overall fire access plan,</p> <p>11 how emergency fire access personnel will be able to access</p> <p>12 the site and get to the -- I guess, the transformer pad?</p> <p>13 MR. GLATFELTER: Yeah. No problem. So access, the</p> <p>14 primary access for -- the whole access for the fire</p> <p>15 apparatus will be off Riggs Road. You can see the access</p> <p>16 point utilizes an existing access, goes around the existing</p> <p>17 barn, and follows the property line to the west to the</p> <p>18 panels and the transformer. For firefighting purposes the</p> <p>19 service location is only the transformer is what is</p> <p>20 considered a flammable -- potentially flammable. So that is</p> <p>21 where we had to serve.</p> <p>22 This access was coordinated with the fire department --</p> <p>23 or the fire marshal, and this plan was subsequently</p> <p>24 approved. And we tried to follow the natural topography and</p> <p>25 the least -- are I guess the flattest way possible. So we</p>
<p>74</p> <p>1 have provided the required, are exceeded the required ESD</p> <p>2 volume by providing two micro bio retention facilities along</p> <p>3 the fire access travel way. And also accounted for non-</p> <p>4 rooftop disconnect, which is a linear practice that</p> <p>5 basically calls for a deep well off of the proposed travel</p> <p>6 way in non-erosive manner. And in doing so, we have met our</p> <p>7 obligation for the County and the State.</p> <p>8 MS. LEE-CHO: And in the record, Exhibit 23m, as in</p> <p>9 Mary is where you'll find the concept approval letter. And</p> <p>10 I believe the plans that we provided are the actual stamped,</p> <p>11 approved a plan by the department of permitting services.</p> <p>12 So at the top middle you'll see the approval stamps. All</p> <p>13 right. Unless there are any questions on the stormwater</p> <p>14 management -- just as an interesting fact I think, maybe Ms.</p> <p>15 Byrne might want to know that the Montgomery County does not</p> <p>16 consider the panel, the solar panels as impervious surface;</p> <p>17 is that true, Brad?</p> <p>18 MR. GLATFELTER: That is correct. Though it is worth</p> <p>19 getting into that every time so because it's changing county</p> <p>20 to county.</p> <p>21 MS. LEE-CHO: Is it?</p> <p>22 MR. GLATFELTER: Yeah, we're seeing it down south here</p> <p>23 and yeah. We're seeing it. So there is --</p> <p>24 HEARING EXAMINER: That is good to know. I did hear</p> <p>25 there was -- keep my ears open and every now and then I</p>	<p>76</p> <p>1 followed the contours to the best of our ability there.</p> <p>2 In looking at providing water access because axis of</p> <p>3 the apparatus is only kind of half the battle, we need to</p> <p>4 provide adequate volume to fight the fire. And we looked at</p> <p>5 a number of different options, but settled on using existing</p> <p>6 features, which is an existing form upon. They're kind of</p> <p>7 in the centroid of the whole property. We used methodology</p> <p>8 described by the fire marshal and industry standards to look</p> <p>9 at the availability, ensure the availability of water in</p> <p>10 that pond even in drought conditions. So we did a drought</p> <p>11 study which is included in the approved plan here.</p> <p>12 And then, we looked at -- we did a draw study. So then</p> <p>13 we looked at the length of pipe and how it was going to be</p> <p>14 pressurized or how the water was going to be drawn from the</p> <p>15 pond to the point of where the fire truck with the setup,</p> <p>16 which is just inside the gate, kind of in that hammerhead</p> <p>17 turn there.</p> <p>18 Again, we looked at a number of different scenarios.</p> <p>19 Based upon the grades of the pond and the final grade of the</p> <p>20 fire truck zone there, the parking area, we were actually</p> <p>21 able to do it via gravity. So basically about -- because</p> <p>22 the fire apparatus area is a bit lower, or the fire hydrant</p> <p>23 could be a little bit lower than the water elevation in the</p> <p>24 pond, one so the valve is open, the water would be</p> <p>25 immediately available without sucking, or drafting air or</p>



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20 (77 to 80)

<p style="text-align: right;">77</p> <p>1 water through the pipe. That was particularly important 2 because as lines get longer, it gets harder to draft. 3 So we worked with Marie in the fire marshal's office to 4 develop this plan. There is some extra details if you're 5 curious on the fire hydrant on how it could be drawn down, 6 how it can be maintained. There is axis, a manhole access, 7 but all this has been coordinated, again, with the fire 8 marshal and approved. 9 MS. LEE-CHO: And the fire access plan is found on 10 Exhibit 20g, and all of its subparts, that plan -- if you 11 click g, you'll see the fire department approval memorandum 12 that's attached. So everything that has just been described 13 has been officially approved by the County. 14 If there are no other questions -- or, if there are no 15 questions, Ms. Byrne, I have nothing further for Mr. 16 Glatfelter. 17 HEARING EXAMINER: No, no questions. Thank you. 18 MR. GLATFELTER: Thank you. 19 MS. LEE-CHO: So then, just coming back around to Mr. 20 Chapman, I am going to have him walk through the necessary 21 findings, the general conditional use standards. If you 22 would like to have him do that, it will be very much reliant 23 on the statement of justification and the staff report, the 24 technical staff report also went through the general 25 necessary findings. And he would be simply reiterating, or</p>	<p style="text-align: right;">79</p> <p>1 based on everything that you have heard and the witness 2 testimony, and the exhibits that have been presented, this 3 application has complied with all requirements under the 4 zoning ordinance and other applicable Accounting State 5 regulatory requirements, and would submit it for your review 6 and approval. 7 HEARING EXAMINER: Okay. Thank you. I know we have a 8 few neighbors here in support. I just wanted to offer this 9 opportunity if anyone else on the call wanted to say 10 anything after hearing the presentation of the Applicant's 11 conditional use information. So at this time, if anyone 12 else would like to say anything, I'm happy to hear you. 13 MR. CREEL: Hi there, this is Marty Creel, a neighbor. 14 On the information and the documents it shows Emmett Tydings 15 as the owner of the Clover Hill Farm. We settled on the 16 South in September, so kind of came in late in the process. 17 But I just wanted to note my support and appreciate Mike's 18 walking through the whole property with me and taking the 19 time to explain all the aspects of the project. His 20 patience and thoughtfulness in this is really evident. And 21 though we will probably be the only neighbor who can 22 probably see some of the solar array during the winter 23 months, we are in support of the plan. 24 HEARING EXAMINER: Thank you, Mr. Creel. 25 MR. CHAPMAN: Thanks, Marty.</p>
<p style="text-align: right;">78</p> <p>1 confirming for the record his agreement with all of those. 2 HEARING EXAMINER: If you wanted him just to make a 3 general statement that he has reviewed the statement of 4 justification as well as the staff report, and all of those 5 elements in there, if he just wanted to make a general 6 statement, I think that would be fine. 7 MS. LEE-CHO: Okay. 8 MR. CHAPMAN: Yes, I reviewed all the -- the statement 9 of justification and the full content of the staff report, 10 and agree with all of those representations and findings. 11 HEARING EXAMINER: All right. Perfect. 12 MS. LEE-CHO: That concludes the Applicant's 13 presentation of the case. I think, as you heard previously, 14 the community outreach efforts that were undertaken, I would 15 note that typically conditional use applications are not 16 required to have prefilming community meetings. They are 17 recommended to do so, and in this case we did, in fact, hold 18 a community meeting via Zoom -- or a virtual platform. And 19 those efforts are described on page 17 of the statement of 20 justification. I think we provided the actual date of that 21 meeting. 22 HEARING EXAMINER: Okay. 23 MS. LEE-CHO: July 13, 2022 and was when we held a zoom 24 meeting with the community. So with that, I don't really 25 have a closing statement of any kind other than I think</p>	<p style="text-align: right;">80</p> <p>1 HEARING EXAMINER: Okay so if no one else has anything 2 to say I would say Ms. Lee-Cho, thank you so much. 3 The witnesses were excellent, a good explanation. A 4 good walking through the exhibits. I know you don't 5 necessarily hear that but I thought that was a job on your 6 part, and a good job, all of the witness, for explaining and 7 walking everything through. 8 So at this point is we will leave the record open for a 9 period of 10 days to allow the court reporter to prepare and 10 submit the transcript. At the same time, if you would go 11 ahead and email us that final -- to myself and to Nana 12 Johnson, that final approved forest conservation plan, we'll 13 add it as an exhibit and we'll give it the next exhibit 14 number, which I don't know what that is, but Nana knows what 15 that is. Let's see, it will be Exhibit 30. 16 MS. LEE-CHO: It's actually just the decision of 17 approval. 18 HEARING EXAMINER: It's not the whole plan, it's the 19 letter confirming the decision. 20 MS. LEE-CHO: Correct. 21 HEARING EXAMINER: The letter confirming the decision 22 will be Exhibit 30, and will be added to evidence. So if 23 you could get that to us in the next day or two and send it 24 via email that will be fine since the record will remain 25 open.</p>

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Conducted on April 28, 2023

21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 So at that point, we will calculate -- so 30 days to 2 make that decision. So 10 days from today is -- we don't 3 count today. Would be May 9th, and then another 30 days 4 after May 9th, I believe that will take us to June, not 7th, 5 but June 8th, because we don't count today. So it will be 6 June 8th will be when the decision will be due by. I'll do 7 my best to get it out as quickly as I can. I usually try to 8 start before we get the transcript going. And once we're 9 done, the notice of decision will be emailed and uploaded. 10 MS. LEE-CHO: Appreciate it. Thank you very much. 11 HEARING EXAMINER: Yeah. All right. So thanks, all, 12 and just as a sidenote, all exhibits are deemed admitted. 13 MS. LEE-CHO: Thank you. 14 HEARING EXAMINER: All right. Thank you all, have a 15 great day. 16 MS. LEE-CHO: Thank you. Bye-by. 17 (The recording was concluded at 11:45 A.M.) 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">83</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Molly Bugher, do hereby certify that the foregoing 3 transcript is a true and correct record of the recorded 4 proceedings; that said proceedings were transcribed to the 5 best of my ability from the audio recording as provided; and 6 that I am neither counsel for, related to, nor employed by 7 and of the parties to this case and have no interest, 8 financial or otherwise, in its outcome. 9 10  11 _____ 12 Molly Bugher, CDLT-161 13 May 9, 2023 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">82</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 3 I, AUSTIN COSTELLO, AAERT, CER, the officer 4 before whom the foregoing deposition was taken, do 5 hereby certify that said proceedings were 6 electronically recorded by me; and that I am 7 neither counsel for, related to, nor employed by 8 any of the parties to this case and have no 9 interest, financial or otherwise, in its outcome. 10 11 IN WITNESS WHEREOF, I have hereunto set 12 my hand and affixed my notarial seal this 1st day 13 of May, 2023. 14 15  16 _____ 17 AUSTIN COSTELLO, AAERT, CER, NOTARY PUBLIC, 18 FOR THE STATE OF MARYLAND 19 20 21 22 23 24 25</p>	

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