



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

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June 25, 2015

Catholic Archdiocese of Baltimore
320 Cathedral St.
Baltimore, MD. 21201
C/o Doug Johnson

Constellation Solar Maryland MC, LLC
1000 Constellation Way, Suite 1000C
Baltimore, MD. 21202
c/o Rick Justice

RE: WP-15-129 (Constellation Solar Farm)

Dear Johnson and Mr. Justice:

The Director of the Department of Planning and Zoning considered your request for a waiver from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request to waive **Section 16.1201(n): Definitions: "Net Tract Area"** and **Section 16.1202(b)(1)(i): Applicability; Exemptions; Declaration of Intent** to allow the Project Lease Area to serve as the Net Tract Area when determining the forest conservation easement obligation.

Approval is subject to the following conditions:

1. The project lease area shall not exceed 20.65 acres as shown on the waiver exhibit unless sufficient information is submitted to justify an increased project area.

2. An updated/corrected waiver exhibit shall be submitted within 2 weeks of waiver approval (**on or before July 9, 2015**) that addresses the following comments:

- The waiver exhibit shall include a detailed note of the conditional use (BA-15-014C) (file number, date of decision and list out ALL conditions of the approval).
- The waiver exhibit must be amended to address any and all conditions set forth in any conditional use approval.
- Remove the reference to Block 9999 in the Title Block from all sheets of the waiver exhibit. Use Grid 23 only and make sure the grid reference appears on all sheets.
- Correct the ADC Map reference in the Vicinity Map to: Map 11, Grid C8.
- Metes, Bounds, Bearings and Distance information for the subject property must be provided on all sheets of the exhibit. Currently part of the property (upper right corner) is cut off on some of the sheets.
- Label old Frederick Road as a "scenic road" on all sheets of the exhibit.

- **Correct Site Data #8 and the graphic portion of the exhibit based on any landscape conditions set forth under BA-15-014C.**
- **Is the area of wetlands 0.19 acres or 0.18 acres. Correct the graphic portion of the exhibit and the Site Analysis Data Sheet for consistency.**
- **The Vicinity Map on the FSD and FCP must be corrected to reflect the requirements of FSD Checklist 1R. ALSO-the ADC Map reference shall be corrected as directed above.**
- **The Address Chart and Permit Chart shall be removed from both the FSD and FCP sheet.**
- **The Director's signature block shall be removed from the FSD sheet.**
- **On page 1 of the FSD and Non-Tidal Wetlands Report-provide Tax Map, Block and Parcel information, acreage of Parcel 21 and zoning under the heading of "Site Description". On page 4, change the reference from intermittent stream to ephemeral stream. Resubmit a corrected copy of this Report for inclusion in the official waiver file.**

The Planning Director's decision was made based on the following:

Extraordinary hardships or practical difficulties:

To use the entire property to calculate forest conservation requirements when the proposed project lease area is only 20.65 acres would be a hardship. The proposed footprint covers a smaller portion of the total site and represents a relatively small disturbance footprint. Should the applicant be required to address forest conservation for the entire 37.329-acre site, this would significantly increase the cost of the project, which would be a hardship. In addition, per the applicant's justification, "utilization of the project area in lieu of the entire parcel area is being sought because the applicant is developing the project as a solar farm with a 20-year lease agreement and the lease area does not encompass the entire parcel. The portion of the parcel area that the project excludes (and is outside the lease area) is an existing on-site forested area. Using the parcel area as the net tract area, allows the forest to be retained but not placed into long term protection. The forest conservation obligation will instead be met through the purchase of credits from an approved forest conservation bank."

Detrimental to the Public Interest /Nullifies the Intent or Purpose of the Regulations:

Allowing the project Lease Area to act as the Net Tract Area for forest conservation requirements does not nullify the Intent and Purpose of the Regulations, it just allows for a decrease in scope. "The FCA regulations were designed to balance forest protection with land development and using flexibility in the application of the regulations serves the intent of the regulations better than strict compliance which could adversely impact the project.....flexibility of the FCA regulations is also appropriate as there is no forest clearing proposed. On-site forest would be retained (but not placed into a long term easement) and the actual obligation would be met with the planting or permanent preservation of additional forest within an approved bank. Any future development outside of the currently proposed Lease Area will also be required to meet Forest Conservation regulations. No development of the site can occur without compliance with the standard FCA regulations. No loss of forest habitat will occur should this waiver requested be granted.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of approval, and date on all related plats, and site development plans, and building permits. This requested waiver will remain valid for one year from the date of this letter or as long as the subdivision or site development plan remains in active processing.

If you have any questions, please contact Tanya Krista-Maenhardt, AICP at (410) 313-2350 or email at tmaenhardt@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

attachment

KS/TKM/waivers 2015/Constellation Solar Farm WP-15-129 approved 6-25-15

cc: Research
DED
Real Estate Services
WBCM