

3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Article V, Part XII, Section 156 of the Ordinance governs Power Generating Facilities and provides:

Power generating facilities may be permitted as a Special Exception in the NAR zone provided that the power is generated solely from solar, wind or water power sources. Solar power generating facilities may be permitted as a special exception in the BG zone provided the following conditions are met:

- a. The minimum parcel size is fifty (50) acres.

- b. The solar power generating facility is screened from adjoining residential zones.

Applicant appeared via teleconference (due to the COVID-19 pandemic restrictions placed upon the State of Maryland via Governor Hogan's Stay At Home Order of March 30, 2020) and testified that they are seeking a special exception to operate a solar power generation facility on what was formerly a hazardous waste site. Applicant plans to place solar panels on the properties with the intention of reviving the site as a productive stream of commerce to the local area by selling power to the nearby community at a discounted price. Applicant testified in its Board of Appeals Application that "the project would not impose an undue burden on the community or tax common community resources because after installation, solar power consumes no electric or water nor creates traffic."

David Fennimore, representing the consortium on individuals and business who wish to clean up the Property, which has been designated a Brownfield site, testified that the facility is projected to be up and running by the first quarter of 2021, and that both the EPA and MDE are in support of the project.

Tom Prevas, Fennimore's partner, also testified. Prevas stated that since the uses of Brownfield sites are extremely limited, this proposed use for power generation is a good way to clean up the site for a beneficial use to the community. Prevas explained that the solar panels will not be manned, therefore, once they are installed, there is no additional traffic to the area. He further stated that the Applicant had already chosen BA Energy to provide the solar panels because of their positive reputation working with Cecil County on other projects. Panels would be leased, but Applicant, as the Property owner, would still be responsible for any activity on the Property related to or resulting from the power generation equipment and/or facility.

No other witnesses testified in favor of or in opposition to the application.

Bryan Lightner, Zoning Administrator, testified that the Division of Planning and Zoning Staff and the Planning Commission recommended approval of the special exception for as long as the Applicant owns the Property and operates the power generation facility and the omission of parcel 360 being rectified in the applicant's rezoning decision by the County Council.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That granting the special exception will not be detrimental to or endanger the public health, safety, or general welfare.

2. There was no evidence indicating that the use will be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor was there any evidence to demonstrate that such use will substantially diminish or impair property values in the neighborhood, nor will the proposed use materially increase traffic to or from the Property as stated by the Applicant in oral testimony.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use.

4. There was no evidence indicating that the use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. Based on the foregoing, the Board finds that the proposed use will be consistent with the current use of the Property.

5. The proposed use will not adversely affect critical natural areas or areas of ecological importance. The Property is not situated in the Critical Area, the Critical Area Buffer, or the 100-year floodplain.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. The particular use proposed at the particular location proposed, will not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 Md. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Once installation of the solar panels is completed, there would be no congestion in area resulting from the facility. During installation, traffic will be minimal and would not impede upon normal activity.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

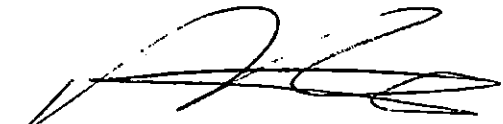
Further, the Board makes the following findings pursuant to Section 156.

1. The minimum parcel size is fifty (50) acres.
2. The solar power generating facility is screened from adjoining residential zones.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of relevant articles of the Ordinance have been met, and the application for the special exception to operate solar power generation facility the Property is therefore **APPROVED FOR AS LONG AS THE APPLICANT OWNS THE PROPERTY AND THE OMISSION OF PARCEL 360 BEING RECTIFIED IN THE APPLICANT'S REZONING DECISION BY THE COUNTY COUNCIL.**

Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

6/22/2020
Date


Mark Saunders, Chairperson

**BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND**

RECEIVED

APR 16 2020

MEET. MONTH: May 2020
FILE NO. 4001J

THIS REQUEST IS FOR:
SPECIAL EXCEPTION RENEWAL
SPECIAL EXCEPTION
VARIANCE
APPEAL

Cecil County LUDS
 Division of Planning & Zoning

DATE FILED: 4/16/2020
AMOUNT PD: \$250
ACCEPTED BY: [Signature]

A. APPLICANT INFORMATION

109-111 Providence Road
APPLICANT NAME - PLEASE PRINT CLEARLY
c/o Saul Ewing Arnstein & Lehr, 500 East Pratt St. Baltimore MD 21202
ADDRESS CITY STATE ZIP CODE
N. David Ferrinore 610-524-9466
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

109-111 Providence Road, LLC
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
c/o Saul Ewing Arnstein & Lehr, 500 E. Pratt Street, 8th Floor Baltimore MD 21202
ADDRESS CITY STATE ZIP CODE
N. David Ferrinore 610-524-9466
PROPERTY OWNER SIGNATURE - ALL PROPERTY OWNERS MUST SIGN PHONE NUMBER

C. PROPERTY INFORMATION

109-111 Providence Road, LLC 04 006410
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
0013 0010 0349 7.29 NAR
TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

To permit use of this former EPA hazardous waste site to generate solar power, which is allowed by special exception in the NAR zone. Installing solar panels on this site puts the site back into the productive stream of commerce. The plan is to sell power to the nearby community at a discounted price through the community solar program. The project will not impose an undue burden on the community or tax common community resources because after installation, solar power consumes no electric or water nor creates traffic.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? YES NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____
Is property in the 100 year Floodplain? YES NO
Is property an Agricultural Preservation District? YES NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Cecil County Zoning Code, Section 156

*ART. XVII, Part II, Sect 307 /
ART. V, Part XII, & ct
156*

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: _____

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? Please select... If yes, distance: _____
Will unit be visible from adjoining properties? Please select. If yes, distance: _____
Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
Number of units on property at present time: _____

