



January 24, 2025

Andrew S. Johnston
Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 Saint Paul Street, 16th Floor
Baltimore, MD 21202-6806

**Written Comments of Montgomery County Council and County Executive Marc Elrich
before the
Public Service Commission in Case No. 9726, Chaberton Solar Sugarloaf I, LLC's
Application for a Certificate of Public Convenience and Necessity to Construct a 4.0 MW
Solar Photovoltaic Generating Facility in Montgomery County, Maryland**

Dear Andrew S. Johnston:

Thank you for the opportunity to submit written comments regarding the Chaberton Solar Sugarloaf proposal to construct a 4 MW Solar Collection System located at 20507 Darnestown Road in Dickerson, Maryland. Montgomery County is supportive of the State's efforts to reduce greenhouse gas emissions by 60% by 2031. And Montgomery County understands how important it is for every jurisdiction to do its part to contribute to that goal.

However, as currently proposed, we have concerns that the project is not consistent with the Montgomery County Zoning Ordinance that restricts development of solar projects of certain sizes and characteristics in our Agricultural Reserve on Class I and II soils.

In 2018 and 2021, the Montgomery County Council revised its Zoning Ordinance to allow larger Solar Collection Systems in certain zones. In Rural Residential, Residential, Commercial/Residential, Employment, and Industrial zones, a Solar Collection System is allowed as a limited use, meaning the use is permitted if certain standards are met. In the Agricultural Reserve (AR) zone, Solar Collection Systems are a conditional use. This is because Montgomery County is in the unique position of needing to balance the expansion of renewable energy with protection of its Agricultural Reserve.

The Agricultural Reserve was established in 1980 and was a landmark decision that set aside 93,000 acres – almost a third of the County’s land – to preserve farmland. Our nationally acclaimed Agricultural Reserve protects and promotes farmland and agriculture, resulting in more than 500 farms that contribute nearly \$300 million to Montgomery County’s annual economy. The Council spent two years discussing and analyzing the best standards for allowing Solar Collection Systems in the AR zone. This included input from multiple stakeholders – both developers and residents – as well as committees and working groups. The result was a Zoning Text Amendment (ZTA) that allowed Solar Collection Systems in the AR zone but with certain protections for farmland. These protections include:

- Prohibiting Solar Collection Systems on soils classified by the United States Department of Agriculture as either Soil Classification Category I or Category II; in a stream buffer; on wetlands; or on slopes equal to or greater than 15%.
- Minimizing grading and soil removal and prohibiting scraping topsoil.
- Prohibiting the removal of trees or landscaping otherwise required and prohibiting the disturbance of any tree in or on a floodplain, stream buffer, steep slope, critical habitat, contiguous forest, or historic site, and any champion tree or other exceptionally large tree.
- Prohibiting the use of concrete except for pad areas for transformers and electrical equipment.
- Requiring compliance with the requirements of the State's net metering program.
- Requiring the area under the solar facility to be used for farming or agricultural purposes and meet one of these criteria: (i) designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program; (ii) planted, managed, maintained, and used for grazing farm animals; or (iii) planted, managed, maintained, and used for any other agrivoltaic plant material.
- Providing evidence that the local utility company will allow the Solar Collection System to be connected to the utility grid.
- Providing evidence that the application was submitted to the Office of Agriculture.
- Requiring screening on the sides of the facility within 200 feet of any neighboring house.
- Limiting the land area for all conditional use approvals for solar facilities in the AR zone to 1,800 acres of land.

These standards ensure that agriculture remains the primary use of the Agricultural Reserve, minimize adverse environmental impacts, and protect neighboring properties. Our Zoning Ordinance accomplishes this while still allowing Solar Collection Systems of up to 2 megawatts. The ZTA also required the Planning Department to submit an impact report by

December 31, 2023.¹ That impact report is enclosed with this letter and highlights the County's accomplishments thus far. It also includes recommendations on both the local and State level.

There are opportunities to develop solar in Montgomery County on land that is consistent with zoning as demonstrated by the recent approval of the Free Rein Solar Farm, LLC. This project received approval to operate a Solar Collection System on a portion of the property known as 5011 Riggs Road, Gaithersburg, Maryland 20882. The project will result in 4.92 acres of solar panels on class III soils or higher, on slopes less than 15% without stripping topsoil and minimizing grading on site.

We do want to encourage more solar projects, and the County is working to map available space for more solar projects. This includes areas where there is sufficient infrastructure for this use. One hurdle to access that we have heard from potential solar project applicants is the ability and cost to connect to the grid. The County respectfully asks the PSC to continue to work with State legislators to improve grid interconnection. Of note, the Agricultural Reserve is particularly vulnerable to this issue as it is at the edge of service areas for all three electricity providers (PEPCO, BG&E, and Potomac Edison), exacerbating capacity shortcomings.

As you are aware, under Section 7-207 of the Maryland Public Utilities Article the Commission must give due consideration to the recommendations of the governing body where the generating station is located, and to the consistency of the application with the comprehensive plan and zoning of the county where the generating station is proposed to be located. Montgomery County has shown a demonstrated commitment to increasing access to renewable energy through its passage of zoning changes to allow Solar Collection System facilities, as well as commitment to the [Montgomery County Climate Action Plan](#). We, the County Council and County Executive of Montgomery County, ask the Public Service Commission to continue to give due consideration to the zoning provisions already in place. Together, we can accomplish all our goals – decreased greenhouse gas emissions, increased renewable energy, and protection of our Agricultural Reserve.

¹ The Maryland National Capital Park and Planning Commission (M-NCPPC) was created under Division II of the Land Use Article of the Annotated Code of Maryland. The M-NCPPC, which includes the Montgomery County Planning Department and Montgomery County Planning Board, has geographic authority in the Montgomery County and Prince George's County region. The M-NCPPC is a separate party to this proceeding.

Andrew S. Johnston, Executive Secretary

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Sincerely,



Marc Elrich
County Executive



Kate Stewart
Council President

Enclosures: Section 3.7.2. of Montgomery County Zoning Ordinance
December 2023 Impact Report of Montgomery County Solar Collection Systems
in the AR Zone