

**BEFORE THE BOARD
OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA**

**APPLICATION OF GRID ALTERNATIVES MID-ATLANTIC ON BEHALF OF THE DISTRICT OF
COLUMBIA**

HEARING DATE MAY 22, 2019

**BZA APPLICATION NO. 19971 SQUARE 6274 LOTS 800, 801 AND 802
ANC 8D**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This prehearing statement includes updated and additional information for the application filed by GRID Alternatives Mid Atlantic. (the “Applicant”) on January 18, 2019, seeking special exception approval for a utility use in the RA-1 Zone District pursuant to Subtitle X § 901.2 and Subtitle U § 203.1(p). The subject property is located at 4605, 4615 and 4625 South Capitol Street, also known as Square 6274 Lots 800, 801 and 802 (the “Property”).

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (“BZA” or Board”) has jurisdiction to grant the requested special exceptions pursuant to Subtitle X § 901.2 of the Zoning Regulations.

III. ADDITIONAL EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A: Revised Plans

Exhibit B: Planting Plan

Exhibit C: Witness Resume

IV. WITNESSES

1. Tommy Wells, Director, DOEE – Importance of project to Washington, DC’s sustainability goals.
2. Richard Jackson, Deputy Director, DOEE – Environmental condition of Project Site.
3. Emil King, Program Analyst, Energy Administration, DOEE – Project Overview.
4. Jen Croft, Sustainability & Energy Project Manager, DGS – Available for questions regarding land disposition and project management.
5. Paul Lanning, Managing Director, Light Box Energy – Technical Expert on Solar Energy.
6. Nicole Steele, Executive Director, GRID Alternatives Mid Atlantic – GRID’s Role in Project.
7. David Lasky, Commercial Solar Construction Manager, GRID Alternatives Mid Atlantic – Available for technical questions regarding site and construction.
8. Kyle Oliver, VIKA, -- Available for questions related to civil engineering and site design.

V. BACKGROUND

A. Description of the Property and Surrounding Area

The 15.44-acre site consists of three lots within Square 6274, Lot 800, 801 and 802 which were subject of an administrative transfer of jurisdiction to the District from the National Park Service in 1972. (“Subject Property”). The applicant is working to combine the three lots and will do so prior to submission of building permits.

The Subject Property is vacant and is primarily gently sloping grassy land; with steeper slopes along eastern edge of lot 802, which run along a stream bank along the Maryland border and Oxon Run Drive. Along South Capitol Street, several one-story retail buildings are located to the northeast of the property. The site is separated from residential properties to the west by a separate lot which contains Oxon Run and its stream buffer. The Subject Property is surrounded by RA-1 zoning on all sides, with the exception of MU-7 zoning along South Capitol Street, which is occupied by one-story

retail buildings. The property across Oxon Run Drive in Maryland is used as a retail shopping center.

The site is a brownfield that is contaminated with petroleum residues from former underground fuel storage tanks that have since been removed. The residues are located approximately 17 to 25 feet below the surface. These residues have a high affinity for soil, and thus pose no danger to humans or animals if left in place. Construction of the solar array will have limited disturbance to the soil. Soil that must be removed will be handled pursuant to a Health and Safety Plan and will be disposed of at appropriate controlled facilities.

B. Description of the Project

The District of Columbia Department of General Services (“DGS”) issued a Request for Proposal for Design-Build Services for Community Renewable Energy Facility in July of 2017, with the goal of reducing energy consumption from existing energy sources while lowering energy costs for District residents. GRID Alternatives Mid-Atlantic (“GRID”) was awarded the project’s letter contract on March 22, 2018. As the winning bidder, GRID is responsible for designing, construction, commissioning and utility interconnection of the community solar facility. After construction, DGS will assume management of the facility.

GRID, a regional affiliate of GRID Alternatives, serves low-income and moderate communities throughout D.C., Maryland, Virginia, and Delaware with single-family rooftop, multifamily affordable housing and community solar installations that target a 50% monthly electricity bill savings for each low-income participant. GRID’s work in the multifamily affordable housing area and the development of community solar facilities has also served low-to-moderate income clients who live in multifamily buildings or in homes that are not suitable for solar. In addition to direct bill impacts, GRID also provides educational and subscriber management services to residents and managers of multifamily

buildings and community solar subscribers, encouraging the entire community to take advantage of the benefits of solar.

The proposed use will further other important goals of the Washington, DC government including the Clean Energy Act of 2018 and Sustainable DC Plan 2.0.

As shown on the attached plan, this will be a ground mounted community solar facility, with no occupiable buildings or structures. The solar arrays will be laid out in sections that are 13 feet wide separated by approximately six-foot wide mowing strips. In addition to the solar arrays, facilities on the site will include transformers and inverters. An eight-foot tall fence will be located on the perimeter of the site. Access will occur from an existing entrance with a lockable gate the end of the existing Southern Avenue right of way. A gravel drive and yard will be provided for maintenance vehicles. The existing curb cut along South Capitol Street will not be used by this project for construction or maintenance access. The layout of the array has been revised from the first submission to avoid wetlands found on site.

VI. SPECIAL EXCEPTION APPROVAL FOR UTILITY USE

The Applicant requests special exception approval for the solar array pursuant to Subtitle U § 203.1(p).

A. Standard of Review

Pursuant to D.C. Code §6-641.07(g)(2) and Subtitle X § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception

sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

The Project is in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In this case, as described below, all of the requirements under Subtitle U § 203.1(p) have been met. The solar array is a passive use of the Property in that it does not generate an excessive amount of noise or traffic. In fact, at less than 60 decibels at a distance of three feet, the equipment associated with the solar facility will be equivalent to the sound of a standard residential washing machine. Further, the equipment is located at least 400 feet from residential uses. Additionally, the Applicant will install landscaping along the South Capitol Street frontage, which, at maturity, will largely screen the solar array from view from the surrounding properties and pedestrians and vehicles travelling along South Capitol Street. A planting plan has been provided.

B. Special Exception Standard for Utility Uses

1. The project satisfies the special conditions for special exception approval under Subtitle 420.1. These requirements are as follows.
 - a. An electronic equipment facility shall not be permitted;
Not applicable
 - b. Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and

As shown on the attached plan, the Proposed Use will be sufficiently setback and screened from the area either by existing buildings, the existing tree buffer of Oxon Run and a fence along the street frontages. In addition, the solar array will be set back at least 400 feet from the nearest residential use, as a result the use will not have an adverse impact on the adjacent residential properties.

- c. Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping and there shall be no advertisement on the structure;

Not applicable.

On April 29 2019, the Zoning Commission was scheduled to take proposed action on a text amendment to the Zoning Regulations, which would revise the special exception standards for a solar array in a residential zone as follows:

Provision of a fifteen-foot (15 ft.) landscaped buffer with evergreen trees planted subject to the following conditions:

- (A) The trees shall be maintained in a healthy growing condition;
- (B) The trees shall be a minimum of eight feet (8 ft.) high when planted; and
- (C) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the Department of Consumer and Regulatory Affairs for review and approval Subtitle according to standards maintained

by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top and drainage mechanisms as necessary.

The Zoning Commission is now scheduled to take proposed action on May 13, 2019.

While the Applicant is seeking special exception relief under the Zoning Regulations in effect at the time of filing the application and not the pending zoning text amendment, the current request meets the intent of the text amendment by providing a 20-foot setback on all sides with increased planting along the South Capitol Street frontage, and existing stream and other buffers along the other property lines.

IX. COMMUNITY OUTREACH

The Department of Energy & Environment (DOEE) began engaging the Oxon Run community regarding this project in October 2017. Via various networks, including direct communication with Ward 8 Councilmember Trayon White's office, DOEE was recommended a number of active community members to engage on this project. An eight-member Oxon Run Solar Task Force was established, which included a mix of residents, non-profit advocates, a faith-based leader, and some ANC 8D Single Member District residents and their respective Commissioners. From the onset, the primary goal of this engagement was to create a mechanism by which the community could have early input on prioritization of beneficiaries, specifically, how and to whom the benefits of the solar energy produced by the solar facility could be most equitably allocated to income-eligible households in the surrounding neighborhood. DOEE staff managing various aspects of the project (funding, low-income assistance and subscriber management, and communications) met with the Task Force members on three occasions in 2018, June 25, July 17, and September 10. A fourth and final meeting is being planned, at which time the group will provide its final prioritization recommendations for subscription allocations.

Over the course of the first three Task Force meetings, DOEE sought to explain the basics of solar energy and community renewable energy facilities (community solar systems), some of the nuances of the District's existing low-income energy assistance efforts and utility allowances, etc, and provide an overall introduction to the project itself, including technical specifications, environmental impact assessments, budget, etc. Engagement with the community continues as DOEE further hones its community outreach plan in order to reach the broadest possible swath of prospective beneficiaries upon project completion. This outreach has included the development of a project webpage containing pertinent context, background and supporting documents, participation in a Department of Parks and Recreation public meeting hosted in partnership with Friends of Oxon Run on April 18, 2019, placement of informational flyers throughout the community, and extensive, ongoing door-to-door canvassing. Going forward, DOEE is engaging multi-family property owners and resident managers, the faith-based community, and other contacts being made through ANC commissioners.

Additionally, according to the ANC 8D's procedures and guidelines the DOEE and GRID presented the project at ANC 8D's meeting on March 28, 2019. While ANC 8D invited the Applicant to its April 25th meeting during its March meeting; it did not add the application to its agenda, so a formal presentation was not made, although GRID did make a brief informal presentation. An email request has been made to have the application discussed at the ANC's work session on May 9, 2019 and that a special meeting be held prior to the deadline for providing comments to the Board of Zoning Adjustment

X. CONCLUSION

For the reasons stated above, the Applicant has demonstrated that its request is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception approval. Accordingly, the Applicant respectfully requests the Board to approve the application.