

**GREENSBORO BOARD OF ZONING APPEALS
GREENSBORO, MARYLAND
APPEAL 720 W. SUNSET AVENUE
HALO GREENSBORO, LLC
MINUTES, FINDINGS OF FACT, AND CONCLUSIONS**

The Greensboro Board of Zoning Appeals held a meeting on March 10, 2025 at 6:00 p.m. to consider an application for a special exception at 720 W. Sunset Avenue to permit a private utility facility – major utility facility with capacity to produce 1.2 megawatts (MW) AC power, along with related equipment, transmission lines, utility poles, access areas, fencing and similar features (the “project”). The Board members present were Board Chairperson, Katie BeBee Cunningham, Jim Bruce, and Rich Covert attending by telephone, as well as the Deputy Town Manager, Jaime Fowler, and Town Attorney, Lyndsey Ryan. Brendan Mullaney was present as the agent and attorney for Halo Greensboro, LLC, (the “Applicant”).

Board Chairperson Cunningham opened the hearing and announced that the Board was present to hear an application for a special exception filed by Halo Greensboro, LLC, seeking approval to permit a private utility facility – major utility facility. Mrs. Ryan administered the oath to all who wished to testify. The Board had before it the Town’s administrative file, which reflected that the notice of hearing was published in the *Star Democrat* on February 26, 2025, and that the property was posted. Mrs. Ryan announced that the Planning Commission held a hearing on February 18, 2025, to consider the request for the special exception and provided a positive recommendation to the Board.

Summary of Evidence and Testimony

Mr. Mullaney proceeded to present the special exception application. He stated that he was present on behalf of the Applicant, Halo Greensboro, LLC, the developer and owner of the requested utility project located at 720 West Sunset Avenue (the “Property”). He said that the owner of the Property is Halo Greensboro Property, LLC, which is an affiliate of Halo Greensboro, LLC. He added that the Applicant is unique because it is the fee simple owner of the property on which the project will be developed, and that most solar projects in Maryland have site control by virtue of a lease of the property for a project that they own. He said that the Applicant is seeking special exception approval for private utility facility, major utility facility, which includes private facilities that generate energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. The project will not exceed 1.2 MW.

Then, Mr. Mullaney explained the Property. He said it consists of two parcels on Tax Map 301 – Parcel 943, consisting of 25.6 acres, and Parcel 936, consisting of 3.73 acres. The total Property is approximately 29.32 acres and it is located north of Sunset Avenue and accessed by Industry Lane on the southern part of the sight. The Property is located within Caroline County, but only a portion of the Property is located in the corporate limits of the Town of Greensboro. Mr. Mullaney clarified that the Applicant's solar project is proposed to be located entirely within the Town limits.

Mr. Mullaney said that the Property is zoned I2, which permits solar as a special exception use. In February, the Applicant presented the application to the Greensboro Planning Commission, who unanimously recommended approval of the application to the Board. Mr. Mullaney said that there are existing industrial and commercial structures on the Property that the Applicant proposes to demolish, and one smoke stack that will be removed. The limit of disturbance ("LOD") for project is 6.57 acres. The project will utilize a single access tracking system whereby panels are mounted on racking on top of high beams that are mounted in the ground. In the morning, the panels will face east at 90 degrees to the sun's rays and as sun travels, the panels will slowly rotate with the sun to maximize the panels exposure to light and electricity output.

The project will interconnect with the existing Delmarva Power grid that runs along Sunset Avenue to the southwest of the project site. Mr. Mullaney said that projects like the Applicant's are long, but are a temporary land use of a property. The anticipated lifetime of a solar project is 25-35 years, and at the end of the project, all of the infrastructure is taken off of the site and the property can be utilized for another permitted use. The project is under 2 MW, which does not require a CPCN from the PSC. Instead, the project requires local approval from the Town which will include site plan approval, electrical, and building permits. Additionally, the project will comply with stormwater management and stormwater design requirements, and sediment and erosion control.

Mr. Mullaney gave an overview of the site plan that was submitted. The first sheet shows an overview of the project. He explained that the area that is darker in the central southern portion of the site is where panels are proposed to be located and will be surrounded by a 7-foot security fence to dissuade trespassers and protect the project. The fence will also meet applicable electrical standards. He also explained the proposed landscape buffer on the southwestern and eastern borders of the array area. He directed the Board to the last sheet of site plan set and said that it shows significant screening around the site. He said there is an existing railroad right of way to the

southeast of the Property that is fully vegetated. The Applicant owns all forested area to the west and northwest of the project and is not proposing any forest clearing as part of the project. Mr. Mullaney said that the closest existing residence is 250 feet from the project and the closest proposed residence is 150 feet away from the project, and on the other side of an existing buffer to the east of the project. The nearest church is 1,900 feet from the project. In an abundance of caution, the Applicant is proposing a 20-foot-wide staggered buffer that will include deciduous trees, understory, evergreens, and shrubs. Then, he provided a detailed list of the proposed plantings. Along the southwest and eastern portions of the project, the buffer will enhance the screening that already exists. The planting plan also requires the planting of 2 ½ inch minimum caliper deciduous trees, ½ inch minimum caliper understory, and evergreens that are a minimum of 8 feet in height. He said that it is very rare for a solar project of similar size to install such significant plantings. The Applicant will submit a planting and maintenance agreement and surety to ensure the buffer is maintained. The surety will be posted for a period of time to make sure the plants are planted appropriately and maintained.

Mr. Mullaney admitted Applicant's Exhibit A titled, "Electro-Magnetic Interference from Solar Photovoltaic Arrays" prepared by the U.S. Department of the Navy Renewable Energy Program Office. Mr. Mullaney read a portion of Exhibit A related to the Federal Aviation Administration's indication that electro-magnetic interference from photovoltaic arrays is low risk. He said the solar panels do not emit a frequency that impact aviation. However, there is an inverter as part of the project that emit low frequency EMI similar to appliances, but while there is a low EMI emitted, it is negligible at a distance of 150 feet from the inverter. This project proposes the inverter to be located 200 feet from the closest building. He said that the conclusion is that there will be no impact to communication or radar.

Then, Mr. Mullaney admitted Exhibit B, a landscape rendering depicting the views of the Property as the proposed landscape is installed and grows. Mr. Mullaney explained the Exhibit, which includes existing conditions, conditions at planting, a depiction of 2 years of landscape growth, and a depiction of the landscape at full growth. He explained that very minimal site work is proposed for the project and that the top soil will not be stripped off the site. The existing improvements, which are mostly dilapidated, will be demolished and removed. Then, Mr. Mullaney explained the construction of the project and mechanisms to avoid traffic build up during that period. All of the materials will be delivered to the site and constructed, and existing structures

will be demolished and removed. Entry to the Property for the project will be off of Industry Lane, with entry to access the interconnection off of West Sunset Avenue. The inverter pad proposed is in the southern corner of the array area that is close to the entrance to ensure that there is quick access for service. After construction, there will be very little impact and the Property will be used passively, with minimal maintenance of the grass and pollinator habitat and grass cutting.

Then, Mr. Mullaney provided the Board with an overview of the Applicant's decommissioning plan. He said that the project infrastructure will be removed at the end of the useful life of the project. A lot of the infrastructure will have a recycle or salvage value. There will also be a decommissioning surety that the Town will be an obligee on. The surety is revisited every 5 years by a third-party engineer to look at the project value and the cost to decommission the project at that time and adjusts the surety based on the review.

Mr. Mullaney said the project is a community solar project, meaning it is enrolled in a community solar program with the state and offers subscriptions to small businesses and homeowners that use electricity through Delmarva Power. More specifically, it offers subscriptions to energy users which is a simple contract with homeowners and results in a reduction of the homeowner's electricity bill. The Applicant expects the reduction in electricity bills to be between 10-20% per month for each subscriber. It is estimated the project will produce enough electricity to subscribe 150 homes to the community solar program. If subscribers save 10% on their electricity bill, it will result in a total savings in year 1 for all subscribers of approximately \$47,000, which is approximately \$314 annually per subscribed household. Over the life of the project, if savings remain at 10%, it will result in total savings of \$1,175,000, or \$7,837 per subscribed household. If savings increase to 15%, Mr. Mullaney estimated that each subscribed household will save \$417 in the first year, and \$11,755 over the life of the project. The Applicant begins their marketing effort locally, by first opening a 30-day window for Greensboro residents to subscribe. After those 30 days, subscribers outside of the Town may subscribe.

Then, Mr. Mullaney went through the criteria that the Board is required to find to approve the Applicant's application. He cited the case of *Schultz v. Pritts* 432 A.2d 1319 (1981) and explained to the Board that they must determine whether there are facts and circumstances that show that the particular use proposed at the particular location would have an adverse effect above and beyond those inherently associated with the use regardless of its location within the same zoning district. He explained that the project proposed must have a unique impact at the proposed

location. Otherwise, the use must be approved.

As to the nature of the proposed site, he said that the Property is 29.31 acres and the project area is 6.57 acres, which is less than 25% of the Property. The project is located away from public rights of way and is setback from the road. The Property is already developed for industrial use, and has a history of industrial and commercial uses. Additionally, the dilapidated structures on the Property will be demolished and removed. As to traffic impacts, Mr. Mullaney said that the traffic caused by the project is not dissimilar from other forms of development whereby traffic occurs during the development phase but then ceases. There will also be noise during development, but it will cease once the project is developed. He said there will be little impact to nearby roadways. Then, Mr. Mullaney described the surrounding area. He said there is an industrial complex to the south and southwest of the Property, and the immediate vicinity had been used as industrial in the past. There is a railroad right of way to the southeast of the project site and a residential development 275 feet to the east that is screened by a significant landscape buffer.

As to public services, Mr. Mullaney said that the project will not draw on public services. In the event of an emergency, there will be 24/7 access to the site for responders and Mr. Mullaney offered that the project developer may meet with the local fire department to discuss managing a particular emergency on the Property. As to preservation of landmarks and natural features, Mr. Mullaney said that no clearing of the Property is proposed. The Property contains no cultural or historic landmarks and is located outside of the floodplain.

Regarding effects from the project, Mr. Mullaney said that three sides of the project site are screened by existing forestation. The panels are constantly perpendicular to the sun and are designed to reflect the sun's rays back to the sun, and not onto neighboring properties. Related to conservation of property values, Mr. Mullaney explained the current nature of the Property and existence of dilapidated industrial buildings that will be removed as part of the project. Additionally, neighboring properties will have the benefit of subscribing to participate in the solar program to receive a reduction in electric bills. He said that the project will improve the Property by utilizing creative redevelopment. As to the Greensboro Comprehensive Plan, Mr. Mullaney said that the project meets the goals and intent of the Plan because it was sited in the Town's industrial area to avoid impacts to environmentally sensitive areas and provides a renewable form of energy.

Then, Mr. Mullaney discussed the specific special exception criteria to permit a private

utility facility. He explained that the project is a temporary use of land and will improve the Property by removing dilapidated structures. The project is located outside of the residential area, and will not adversely affect the health or safety of residents or workers in the area. The project will be secured by a seven-foot-tall fence and will generate minimal traffic. He said that the project will not constitute a nuisance and has been designed to minimize adverse impacts on neighboring properties. The interconnection of the project to the electrical grid will be reviewed and approved by Delmarva Power. Mr. Mullaney reiterated the consistency of the project with the Greensboro Comprehensive Plan.

Mr. Mullaney said that the proposed project is a less intense use of the Property and has fewer and less severe impacts than many of the other permitted uses on the Property. He said the Applicant owns and develops solar projects throughout the Eastern Shore, with projects in Cecil, Kent, and Talbot Counties. He said that a benefit of the project to the Town is that solar projects are subject to personal property tax, and he estimated that the owner will pay \$24,667 in personal property taxes in the first year, and \$444,000 in personal property taxes throughout the life of the project. A percentage of the personal property tax collected will be remitted to the Town, with the remainder going to the County. Then, Mr. Mullaney introduced Sean Miller, a civil engineer at Kimley-Horn and Associates, Inc., the project design engineering firm.

Mr. Miller said the construction period of a project of the Applicant's size is 6-9 months. However, this project has a component of demolition which will add 1-2 months to the overall project timeline. Board Member Covert asked about the environmental impact on the Forge Branch, which is close to the Property, caused by the project. Mr. Miller responded that the project will comply with MDE and Caroline County stormwater management regulations which require quantity control to ensure the project doesn't result in more stormwater runoff, and quality control to ensure that the stormwater is treated prior to reaching sensitive areas. He explained that the panels are non-rooftop disconnect so the panel area shown on plan will result in stormwater runoff that will infiltrate the ground underneath. Any additional stormwater will be controlled prior to leaving the site. He explained that because the solar panels are off of the ground, they are not considered impervious area and they aren't anticipating any quantity control to be required. In the event that there is an increase of runoff from the site, quantity control will be required.

Mr. Miller said that the project is reducing impervious area by demolition and removal of the existing structures by 2.73 acres. Therefore, they anticipate that stormwater runoff will be

reduced. Board Member Covert asked Mr. Mullaney how long the Applicant will guarantee the buffer plantings. Mr. Mullaney said that the surety that will be posted generally is posted somewhere between 2 – 3 years and there is a final inspection by the town before the surety is released. A planting and maintenance agreement will require the buffers to be maintained for the life of the project but can be removed when the project is decommissioned. Mr. Mullaney said that if plantings need to be replaced during the life of the project, it will be a requirement of the property owner. Chairperson Cunningham asked if our local emergency response teams will receive training on how to handle an emergency at the property. Mr. Mullaney said that projects of this size generally do not provide formal training, but that the Applicant will interact with the local emergency responders.

Board Member Bruce asked questions about microclimates. He said that there have been studies done about microclimates and asked what studies the Applicant has completed or reviewed related to microclimates. Mr. Miller said that they did not conduct a microclimate study, but said that based on the removal of impervious area there is a reduction in heat generated to the Property. Board Member Bruce raised concerns about solar panels being thrown away in landfills after a project is decommissioned. He asked the Applicant if their decommissioning procedures require the materials to be recycled rather than thrown away. Mr. Mullaney said that decommissioning plans require recyclable materials to be recycled. Mr. Mullaney said that the particular panels proposed lose approximately 0.5% of output each year, so at the end of a 25-year project, each panel will have lost 12.5% of its output. With minimal output loss, Mr. Mullaney anticipates that the panels will be repurposed and sold to third parties upon decommissioning the project. Board Member Bruce raised concern that taxes will increase as a result of digging a new landfill as a result of solar infrastructure filling up existing landfills. He concluded by stating that he preferred for the Property to be used for a project that can employ local residents.

Public Testimony

Chris Mason testified in opposition to the application. He said that the Applicant's presentation was contradictory related to which households the project may serve. He raised concern that the Applicant is in partnership with DR Horton. He also raised concern that this is only a phase of the project and that the Applicant will seek to expand the project beyond the 6.75 acres included in the application. He said that solar is inefficient and questioned the profit margin of the project and benefit to the Applicant. He said that the project will be an issue for the

Greensboro Fire Department and will require specialized training to respond to an emergency. He said that the Town is surrounded by solar fields and that the use should not be forced upon residents.

Terri Christopher testified in opposition to the application. She said she was born in Greensboro and lives on Hobbs Street, across from the proposed project. She raised concern about the environmental impacts caused by the project and suggested an environmental impact study. She said that hail storms can damage solar panels and cause toxic runoff. She is concerned about the watershed. She believes this project does not benefit the residents and is deeply concerned about the long-term benefits of the panels.

Larry Porter, the Vice President of the Caroline County Commissioners testified. He confirmed that battery storage is not a part of the project. Mr. Mullaney confirmed that battery storage is not a part of the project. Mr. Porter strongly suggested that the Town require 100% of the value of the panel for decommissioning and stated that there is no salvage value of solar panels. Then, he discussed solar project preemption.

Dana Price said that she has seen a lot of damage caused by solar farms in the Midwest where panels were left after the life of a project. She admitted that she is not a solar expert. She said that she is a multi-generational eastern shore native that has lived on the land for a long time and is watching it be destroyed by solar panels. She explained that Kent County and Queen Anne's County were destroyed by solar panels and is concerned that Caroline County is being infiltrated. She said that solar facilities do not bring any jobs and increase property taxes. Solar projects provide an opportunity for people across the bridge to make money, while pushing local people off of the land.

Sharon Dillard stated that she is not a fan of solar panels and is concerned that taxes will increase and the project will not bring a benefit to residents.

Board Member Covert asked Mr. Porter about a solar project in Caroline County that used to be a landfill. Mr. Porter said that the County was not opposed to the project because the project utilized brownfield and not farm land. Board Member Covert said that he prefers the Applicant's Property to be utilized for an industrial use than a solar project. However, he admitted that he prefers that the project is seeking to utilize industrial land instead of agricultural land.

Kim Ernest said that she is opposed to the project.

David Spencer testified and said that he agreed with all public comment received. He does

not see a benefit from the project. He said that it will be an eyesore coming into Town and does not want to see any additional solar facilities. He would rather see the industrial park used for an industrial use that will employ residents and is concerned that his grandchildren will have the burden of dealing with the solar panels in the future.

Applicant's Response

Mr. Mullaney addressed the Board to respond to the concerns that were raised during public testimony. Mr. Mullaney asked the Board to recognize Mr. Miller as an expert. Mr. Miller provided the Board with his education and experience. Mr. Miller holds professional engineering licenses in Maryland and Delaware, and has been working in civil site development for 7.5 years. Mr. Mullaney asked the Board to recognize Mr. Miller as an expert in the field of engineering, to which the Board declined. Mr. Miller said that he has worked as a designer or planner on 25 solar projects across the state. Mr. Miller said that in his expert opinion and experience with similar developments and the project as designed and proposed, he believes the project satisfies the special exception legal criteria that the Board must find to approve the project.

Then, Mr. Mullaney addressed additional concerns that were raised. He said that there is no affiliation between the Applicant and DR Horton, or any of its subsidiaries. He also said that there is no phase 2 of the project, and such expansion of the project would require various approvals, including from the Board of Appeals.

He said the project will bring a significant tax benefit to the town. He said that the project is consistent with the Greensboro Comprehensive Plan. There is no battery storage proposed as part of the project. Mr. Mullaney said that as a condition of approval, the Applicant will exclude the salvage value of the project in the decommissioning bond in the decommissioning plan to address Mr. Porter's comments. Regarding preemption, Mr. Mullaney explained the difference between this project and one that is required to obtain CPCN approval from the Public Service Commission.

He said that the project complies with the Town's design standards and is responsibly sited away from roadways and existing residences. The project is already screened on 3 sides by existing vegetation, and the Applicant will add a landscape buffer on 2 sides. He concluded by stating that the Property is zoned industrial and permits solar facilities as a special exception use. He reminded the Board that a special exception use is one that is deemed to be permitted on the property unless

there is a showing that the use proposed has a unique impact that is not inherent to the use. In this circumstance, he said that there has been no demonstration that there is a unique impact caused by the solar project as proposed on the property.

Applicable Provisions of the Zoning Ordinance

Article 1, Section 10.20.C of the Greensboro Land and Development Ordinance permits private utility facilities such as solar facilities by special exception in the I-2 District. Section 6.03.A. provides that the Board shall give consideration to the following, where appropriate:

1. The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures;
2. Traffic patterns and impacts;
3. Nature of the surrounding area;
4. Proximity of dwellings, churches, schools, public structures, and other places of public gathering;
5. Availability of public services;
6. Preservation of cultural or historic landmarks and significant natural features and trees;
7. Probable effect of noise, vibration, smoke, and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties;
8. Conservation of property values;
9. The purpose and intent of this ordinance;
10. Consistency with the Town's Comprehensive Plan.

Section 6.04.nn of the Land and Development Ordinance provides specific special exception criteria for a private utility facility as follows:

1. The proposed use does not have an adverse effect on the Town's Comprehensive Plan for development of the community;
2. The proposed use will not affect adversely the health and safety of residents or workers in the area.
3. There is a public necessity for the proposed building, structure, or facility at the

location selected.

4. Such use shall not constitute a nuisance because of traffic, noise, type of physical activity, or any other element which is incompatible with the environment and character of the surrounding neighborhood.

5. In making these findings concerning utilities, the Board shall consider the following factors, and such other factors as the Board of Appeals may find to be necessary or important to effectuate its review:

a. Points at which the proposed utility crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;

b. Proximity of the utility to schools, churches, theaters, or other places of assembly, either existing or proposed;

c. Effect upon property values of those who will not be compensated for a taking under the laws of the State; and d. Proximity of the utility to historic sites and structures.

Findings of Fact and Conclusions

1. There has been proper notice to the public and the affected landowners concerning the Application.

2. The Property is located in the I-2 District and had been used in the past as an industrial facility.

3. The project will provide no benefit to the Town of Greensboro.

4. The project will not utilize Town utilities, including water and sewer.

5. The use will adversely impact adjoining properties in the area.

6. The Applicant is proposing a large project with access via a small road.

7. The project is surrounded by residential properties.

8. The Board is concerned with traffic.

9. The project is proposed too close to the new residential community under construction.

10. The Applicant cannot guarantee that there won't be radiofrequency interference or microclimates caused by the project.

11. Radiofrequency or microclimates caused by the project will have a greater impact at the Property than other locations.

12. The project is better suited for property zoned Industrial and not I-2.

By a unanimous vote, after hearing testimony and viewing the evidence, the members of the Board determined that the Applicant did not meet its burden to approve the special exception. Chairperson Cunningham made a motion to deny the special exception. Chair Member Bruce seconded. By a vote of 3-0, the Board found that the Applicant did not meet its burden of establishing the criteria to grant the special exception.

Record of Members Vote

Katie Bebee Cunningham	-----	Nay
Jim Bruce	-----	Nay
Rich Covert	-----	Nay


Certification of Members

The undersigned hereby certify that the foregoing Minutes, Findings of Fact, Conclusions, and Voting Record accurately sets forth the proceedings of the Greensboro Board of Appeals on March 10, 2025, concerning Special Exception Application 720 W. Sunset Avenue.

Date: 5/13/2025



Katie Bebee Cunningham



Jim Bruce



Rich Covert