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## CB-59 - BAD Legislation!

SJ

Suzanne Jones <jones.suze@gmail.com>

Today, 8:52 AM

CouncilMail

Reply all |

Just a note to let you know that I oppose CB-59 as currently proposed. I do not think it is right & I do not think it is fair. There is no reason farmers need to have the privilege of being overpaid to lease their land for solar purposes -- especially when densities are being put upon in the eastern portion of the County. There are many alternatives that are more attractive for more than one reason (rooftop solar, for one).

I HIGHLY oppose:

- \* \$30,000 - \$40,000 per acre for putting land in agricultural preservation.
- \* Density Exchanges Options for \$40,000 per acre.
- \* Lease payments per acre at a rate of \$1,500 per year.
- \* Famers who pay little or no property, fire, or rain tax—while still residing in Howard County.

CB-59 is ill thought out legislation and it needs to be stopped. As a resident of the "east" section of Howard County, I highly resent the treatment we are receiving in favor of the west. I vote and I vote my conscious.

--

Regards,

Suzanne E. Jones

(410) 465-7861

10144 Hobsons Choice Ln.

Ellicott City, MD 21042

Go placidly amid the noise and the haste.  
You are a child of the universe.  
And whether or not it is clear to you,  
no doubt the universe is unfolding as it should.

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## CB59 as amended

PV  
○

Paul Verchinski <verchinski@yahoo.com>  
Today, 2:49 AM  
CouncilMail

Reply all |

I support this Bill as amended and ask that it be passed. Paul Verchinski 5475 Sleeping Dog Lane, Columbia

Sent from Yahoo Mail on Android

Fwd: CB 59 -2016

RT Richard Tufts <tuftsdaissy@verizon.net>  
Yesterday, 5:53 PM  
CouncilMail

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| Action Items

To All,

I will appreciate your kind consideration of the points in my letter below.

Respectfully,  
Richard G. Tufts  
Daisy MD

Letter to the Howard Council from Richard G. Tufts  
Regarding Proposed CB 59-2016

I regret being unable to attend the Council meetings in September and am therefore taking the liberty of writing to express my position on CB 59 - 2016 and hope you will consider and find the following thoughts helpful:

I agree with testimonies by Mr. Ted Mariani, Mr. Dan O'Leary and Ms. Susan Garber presented at the September 19th session. Additionally, I believe Ms. Becker's testimony was spot on and trust you will deeply weigh the legal ramifications she pointed out before pressing on with the proposed bill.

I am in favor of helping our farmer neighbors and support the Agricultural Preservation program. It should be maintained and respected together with the Trust of ALL Citizens.

The Ag Pres program was established with Howard County citizen input. I understand it was and is for the purpose of incentivizing land owners to protect their land from commercial development while preserving and allowing its use for farming. You all are acutely aware of the dictates of the Agricultural Preservation Program's law. But as Ms. Becker very professionally pointed out, this law is being ignored. If more serious consideration is not given to the proposed Bill, I feel not only will it destroy Public Trust for the good of a few, but it will be illegal and ripe for challenge. More work is definitely needed.

Please remember as you devote more effort to the Bill, that **using Ag Pres land for purposes other than Agriculture, cannot interfere with its primary use, which is AGRICULTURE.** I am concerned that by opening Ag Pres today to commercial solar power farms, tomorrow, the County could be seen destroying

Public Trust. I feel this could establish a very bad precedent i. e. a 'slippery slope' unless there are constraints written into the Bill and codified prohibiting participants from "coming back to the well" again in 20 more years.

While working towards a viable bill that will benefit to the farming community as well as the overall community, may I also suggest considering a COMPROMISE- a Farm-to-Table Cooperative. Three years ago the Roving Radish program was started by Howard County with its initial goal of "... Promoting healthy farm-to-table eating habits [in] our community [citizens], while creating sustainable markets for our local and regional farms." In the first year that program was able to purchase less than 10% of local farm product; today that number is closer to 40% of local product going into the meal kits. This year Mr. James Zoller and the Roving Radish added a farm-to-restaurant delivery program which will provide an opportunity for local farms to get more of their product into many fine restaurants in Howard County. Kathy Johnson, Howard County's Agricultural Development Manager with the county Economic Development Authority has been working with the farming community, the restaurants and the Office of Tourism to develop a restaurant-growers program over the last several years. She has been researching the idea of a Cooperative and working with Mr. Zoller has brought about some growth in the relationship between farms and restaurants. There are many more opportunities in this area that need to be explored. I believe speaking and working with Ms. Johnson from HCEDA and Mr. Zoller from the Roving Radish to establish a robust farm-to-table/restaurant Cooperative, will benefit our farmers and contribute to the health of all Howard County residents.

Council members, growing fruits and vegetables is what farms are for! It is what the Ag Pres program was and is intended to promote. Cooperatives like the one in Washington County, Southwest Virginia, are working very successfully throughout the country. A Farm to Restaurant & Table Cooperative NEEDS to be more robust in Howard County County.

In closing I wish to express my concern with the implication suggested in remarks before the Council on September 19. I have authored Scenic Roads rationales and thanks to Councilman Greg Fox, successfully listed five roads in the Rural West in the Scenic Roads Inventory. I have believed in Mr. Kingdon Gould's initial intent for forty years and feel our bucolic, country roads need protecting. It would be shameful to destroy or further dilute the Scenic Roads Act to "make way" for commercial development. Finally, I feel the implication of remarks regarding the function of our Hearing Examiner were inappropriate. I trust the Council will dismiss disparaging remarks made concerning Scenic Roads, Historic Structures and our Hearing Examiner's functions.

Thank you very much for reading these thoughts. I hope you will seriously consider our two points - the serious ramifications of Council Bill 59-2016 as proposed and the merits of our suggested Compromise, a robust, viable farm-to-table Cooperative in Howard County.

Respectively,  
Richard G. Tufts  
Daisy, MD

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## SOLAR FARMS

BERNADETTE MULLINIX <mbmullinix@verizon.net>

Reply all |

Wed 9/28, 8:10 PM  
CouncilMail

TO ALL MEMBERS

PLEASE INCLUDE MALPF GROUND. YOU DID IT QUICK WHEN IT WAS ABOUT MULCH. NOT YOU JON.

ALSO I SEE A SOLAR FARM CAN'T BE BUILT IN VIEW OF A PARK. MAYBE WE DIDN'T WANT THE PARK OUT HERE.

I SEE IT MUST BE FENCED AND HAVE A VIEW SCREEN BUILT AROUND IT.

TELL PEOPLE TO CONTROL THEIR KIDS.

WHEN THEY BUILT HOUSE'S IN THE WESTERN END OF THE COUNTY THEY DID NOT BLOCK THEM FROM MY VIEW.

AND LAST LETS CALL PRESERVED GROUND WHAT IT IS OPEN SPACE.

THE COUNTY NOR THE STATE HAS DONE NOTHING TO PRESERVE THE STUART OF THE LAND.SO ALL BOTH ARE DOING ARE

DOING IS OPEN SPACE. YOU CAN PUT A DRESS ON A PIG IT IS STILL A PIG.

THANKS MARK A MULLINIX

CELL 443-310-0348

YES I ALWAYS DO ALL CAP LOCKS, NOT SCREAMING JUST FIND EASIER TO READ

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## Personal thoughts on CB59



Susan Garber <buzysusan23@yahoo.com>

Sun 9/25, 4:11 PM

CouncilMail

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Additional personal test...

39 KB

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Action Items

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Please consider the information in the attached document.

Best regards,  
Susan Garber

Dear Councilmembers,

I oppose turning farm land into large solar installations, especially preservation parcels. There is NO farming involved in a "solar farm." Just because an activity is conducted on parcels zoned for and taxed as agricultural land, it is not necessarily farming. Industrial mulching is a prime example of such an activity Howard County has been debating. I find solar farms just as objectionable and in need of greater public debate. Farming implies planting things which grow or tending animals which grow. The only thing a solar farm grows is passive income for land owners and profits for solar companies. (Of the solar industry representatives, who spoke at the public hearing, two were from out of state and one was from out of county. Where's the benefit to Howard County in that?)

The Maryland General Assembly declared that it is in the general public interest of the State to foster and encourage farming activities to:

1. maintain a readily available source of food and dairy products close to the metropolitan areas of the State;
2. encourage the preservation of open space as an amenity necessary for human welfare and happiness; and
3. prevent the forced conversion of open space land to more intensive uses because of the economic pressures caused by the assessment of the land at rates or levels incompatible with its practical use for farming.

It is for those reasons that Howard citizens have paid dearly to preserve land in the west. In addition to the commitment of tax dollars for purchasing development rights, the consequence for those in the east is increasingly overwhelming density with all of the negative quality of life issues that involves.

I understand the good intension of helping to boost farming income. However, **it is critical that farmers not suffer from unintended consequences from this bill.** Farmers (with land in agricultural preservation or not) who are enjoying lower tax assessments on their land might want to think twice before signing any contracts with solar installers. Do they really want to have their land assessed at non-farming rates???

The Tax-Property Article of the Annotated Code of Maryland, Section 8-209, <http://www.dat.state.md.us/sdatweb/aguse.html> details what the agricultural use assessment means to the property owners, namely significant savings. However, according to the Annotated Code **the significantly lower assessment only applies to land that is "actively used" for farm or agricultural purposes and defines "actively used" as "land that is actually and primarily used for a continuing farm or agricultural use."**

The primary test used by the Department of Assessments and Taxation can be summarized as follows:

1. What is the nature of the agricultural activity? Is the land tilled or is it in pasture or woodland or a combination?

2. Is the agricultural activity truly a bonafide agricultural activity that is generally recognized as such by the agricultural community?
3. Is the agricultural activity the primary use of the land or does it appear that the primary use is non-agricultural?
4. Is the agricultural use a continuing operation or only temporary in nature?

Considerable tax penalties can result from receiving the agricultural use assessment inappropriately. Neither industrial mulching nor commercial solar installations are agricultural uses and they therefore should not benefit from the lower agriculture use assessment. Owners should be mindful that lands being assessed in the Agricultural Use Category could be subject to an Agricultural Transfer Tax at some later date in the event of a transfer, sale, or other action leading to or causing a violation of the agreement as contained in any Letter of Intent that may have been filed in order to receive the Agricultural Use Assessment.

The lower assessments on agricultural land are shockingly low! I was surprised to find that parcels of 75 acres (and more) in western HoCo pay less property tax than I do. Consider that I have less than half an acre, some of which is in forest conservation, and that I live in the OVER/UNDER part of Howard County. (The southeast part with OVER crowded roads, OVERly dense development, OVER CROWDED and UNDER achieving schools?) You may find it interesting to go to the MD Property tax database and compare your own tax assessment with those of large parcels in the west.

<http://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx>

Forgive me if I feel a bit cheated; especially when it comes to the prospect of agricultural preservation land owners triple dipping by installing solar panels instead of actually farming. In addition to benefitting from a significantly lower property tax rate they have already been paid to relinquish their development rights.

That money paid for relinquishing development rights is substantial. According to County records, the price paid by the county has varied over the past 25 years. In 1990 \$6,000 per acre was the norm but this has escalated dramatically with recent contracts in the \$30,000 plus range. In 2011 the county purchased 3 easements for a total commitment of 34.8 million dollars, of which 28 million was cash payments and 6.7 million was in future interest payments. The owner has an option of taking a cash payment or a 30 year tax exempt bond. In the 1990's the interest rate on the bonds was in the 8% range which led many to accept the bond option. Recently, due to low market interest rates, the cash option seems preferred. In 2015 we Howard Co. tax payers paid as much as **\$30,966 per acre** for farmland to remain farmland! How come that is not enough??? How come the citizens' bargain to preserve farmland is about to be broken?

The most recent version of the HoCo Ag Pres Program restrictive covenant states that in exchange for the payment the Grantor (land owner) covenants, grants and relinquishes the Development Rights in the Land. Development Rights is defined in section 15.502 of the Act as meaning the right to develop the parcel for purposes other than agricultural uses. "Development Right" includes, but is not limited



to, the right to use the property for industrial or commercial uses, for residential purposes (except for owner and tenant houses) or the storage or depositing of trash, junk, rubbish or debris.

It is interesting to note that the O' Malley Administration (always red hot on all forms of alternative energy production) had the good sense to allow—but limit-- solar installations on Maryland Agricultural Land Preservation Fund (MALPF) easements. **MALPF limits the size to 5% of the farm-- but in no event more than 5 acres no matter how large the farm.** (The MALPF program also requires an annual payment to the State if the land is thus utilized. I don't see a similar benefit to Howard County included in the proposed legislation.)

The proposed ZRA has no limit on the percentage of the site to be utilized and would allow up to 75 acres of solar panels. **How come Howard County would consider lowering its standards so far below the State's?** Such irresponsible action will have consequences beyond putting a blemish on what to date has been an outstanding success. It threatens to eradicate not just the appearance of preserved land or of sustaining agriculture, but of any continued support of the Ag Pres Program by the community at large *who sacrifices quite a bit for it.*

While solar panel producers claim they can yield energy without the dispersal of carbon emissions or greenhouse gasses produced by fossil fuel power generating systems, **solar energy production is not without health issues**, particularly in its manufacturing and disposal. The Silicon Valley Toxics Coalition warns "that solar panel production creates many of the same toxic byproducts as those found in semiconductor production, including silicon tetrachloride, dusts, and greenhouse gases like sulfur hexafluoride. These byproducts aren't anything to scoff at— silicon tetrachloride, for example, makes land unsuitable for growing crops. And for each ton of polysilicon produced, four tons of silicon tetrachloride are generated." <http://cleantechnica.com/2009/01/14/danger-solar-panels-can-be-hazardous-to-your-health/>

"Modern solar systems use components that radiate high levels of radio frequency electromagnetic radiation, which poses health risks to those with electromagnetic hypersensitivity (EHS). The primary health hazard involved with solar energy generation is that people with EHS get sick from electromagnetic radiation in even very small amounts.....Solar cells are also made of non-recyclable materials. Therefore, the absence of an environment-friendly way to dispose of non-functioning solar cells could pose a threat to the environment as well." [http://www.ehow.com/list\\_6155201\\_solar-energy-health-effects-humans.html](http://www.ehow.com/list_6155201_solar-energy-health-effects-humans.html) Some people report being able to hear the hum from the inverters.

Any commercial solar installations on non-preserved farmland should have requirements for considerable setbacks in addition to being taxed at non-agricultural rates. My preference would be that as a rule of thumb they should be invisible to neighbors and passing traffic from roadways. They should not saddle up right next to roads and destroy the view of the countryside. Decades ago the decision makers in HoCo dictated that all development should occur in the eastern part of the county in order to preserve the west. CB59 removes the opportunity for density-weary residents to have a Sunday drive in the country **in our own County.**

*Susan Garber*

Reply all | Delete Junk |

## CB 59-2016

SG

Susan Garber <buzysusan23@yahoo.com>  
Sat 9/24, 12:37 PM  
CouncilMail

Reply all |

HCCA opposes CB59R.p...  
249 KB

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Action Items

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Dear Council members,

Thank you for your attention to my testimony on Monday, September 19, 2016. Regrettably, I discovered that the copies I provided you that evening were not of my final version. Please see the attached document which has additional conclusions.

Best regards,  
Susan Garber



# HCCA

**Howard County Citizens Association**

*Since 1961...*

*The Voice Of The People of Howard County*

The HCCA finds CB 59 (ZRA164) to be extremely disappointing on multiple fronts, both general and specific.

**IN GENERAL** it perpetuates the worst of some recurring bad practices:

- 1.) At a time when our zoning and subdivision regulations are in desperate need of a complete overhaul, this is another prime example of diluting our zoning laws one ZRA at a time. One fully suspects that each and every conditional use listed currently was the result of one or more individual property owners who wanted to do yet one more thing with their property beyond what had previously been allowed. We need a better defined and more comprehensive, rather than piecemeal approach to zoning.
- 2.) Zoning changes outside of the 10 year Comp Zoning process are granted for change or mistake. This ZRA is being presented as if to simply correct an oversight. Perhaps that oversight **was** opening the western part of the county to commercial solar installations. Perhaps the permission in section 106. 1 was the mistake, rather than failure to remove the prohibition in section 131. O. N. 5 2. A. It is alarming how quickly a 2013 Comp Zoning provision to provide an increase to 2% of parcels for conditional uses is now increased to 75 acres! That 75-acre conditional-use limitation is the only limiting factor proposed for eligible parcels.
- 3.) Failure to identify those parties who will benefit the greatest from the change constitutes a lack of transparency. Who stands to benefit the most this time? Why did **they** not put forth the ZRA themselves? Why did they not pay the fee that helps cover staff expenses for its consideration? Is the major beneficiary the Solar Companies marketing to farmers or is it those few large parcel owners who are likely to fit the qualifications to benefit from 75 acres of passive income? Are they simply trying to avoid drawing attention to themselves?
- 4.) Loosely defined terms and a lack of specificity on enforcement leaves provisions open to interpretation—and litigation, adding significant time and expense to what needs to be more straightforward. Stipulations like "tree removal shall be *minimalized*" has proven meaningless in other zones, like R-H-ED. Similarly, while it is laudable to include a provision that a solar facility no longer used needs to be removed from the site within one year, without bonds put up front to ensure its removal there's absolutely no guarantee this will happen.

5.) Citizen participation is once again only an illusion. While the legislation calls for the ALPB to review requests for solar installations the criteria for evaluation is not included in the actual legislation. The Boards function is only advisory, thus allowing a single person, the Hearing Examiner, to ignore and override their expert recommendations. HCCA has recently submitted a proposal that citizen-staffed Boards and Commissions (such as the Historic Preservation Commission or Design Advisory Panel) be elevated to authority status from advisory. If a change in the Zoning regulations is necessary to achieve this, then that would be a worthwhile use of the ZRA process!

6.) The unfortunate reality is that one can pick specific sentences out of Plan 2030 to justify almost any action. It appears that merely quoting chapter and verse is all that is required for DPZ to 'support' the proposal in their technical report without truly evaluating the impact on the general welfare of the citizens.

7.) Zoning regulations and changes are often indistinguishable from the activities of the Economic Development Authority. DPZ recommends the 2% cap restriction be removed in order to produce economically viable commercial solar facilities. Is it our job to increase farmers income? is that the job of government? Increasing the income of farmers (and solar companies who may or may not be located in Howard County) is taking precedent over breaking the public trust (and ignoring their sacrifice.) It puts profit for a few over quality of life for the many—with no discernible tax benefit to the County.

8.) There is a failure to provide specific data, necessary to make informed decisions. While 270 parcels are identified as being of at least 10 plus acres in the preservation program, this proposal fails to identify how many of those could actually reach the 75-acre maximum. Prognosticating that "only a few will actually qualify or wish to do so" is not a justification for permitting an activity. One need only look to the conditional use of age restricted housing in R-20 to see density increase from 2 units to 5 units per acre throughout the County.

9.) Failure to recognize that Howard County is the second SMALLEST jurisdiction in the state is resulting in numerous significant APFO issues. Constantly increasing density and decreasing open space is short-sighted and irresponsible.

**SPECIFICLY**, there are numerous fundamental issues relative to commercial solar installations in the western county.

1.) **Commercial solar facilities are not agriculture.** One cannot simply redefine terms because it is convenient or profitable to do so. Webster defines agriculture as 'the science or art of cultivating the soil, producing crops, and raising livestock.' Such agricultural pursuits are what Howard County citizens were agreeing to when they supported the establishment of our

Agricultural Land Preservation Program, or Ag Pres for short. Merely adding the noun 'farm' after another word does not imply any agricultural pursuit, as is evidenced by the terms 'fat farm' or 'funny farm'.

**2.) Allowing large commercial solar installations on ag pres land breaks a fundamental trust with those residing in other parts of the County who sacrifice considerably in supporting the preservation of Western Howard County for farming.** Those in the Eastern part of the County have been told for decades they must accept greater residential density and all the commercial and industrial uses -- and the lower quality of life that comes with that in order to preserve and protect the west from development. Supporters of this bill try to now justify trading support of local agriculture for support of green energy production. References to policy 4 .12 are simply **not** adequate to justify this breaking of the public trust.

**3.) What exactly is the public benefit?**

We hear many arguments for how this will benefit farmers, but Howard County should not sacrifice its agricultural preservation land in order to provide additional income for farmers OR energy for others. Why, as the second smallest jurisdiction in the state of Maryland, (and with an unusually high 51% of land already developed) would we want to expand solar installations in the huge quantities suggested?

**4.) There appears to be a greater benefit to the solar industry than to Howard Co taxpayers.** Whether putting 234 ALPP properties and 746 dedicated preservation parcels in Howard into commercial solar facilities is a true benefit to the health, safety, and welfare of the entire Howard population is much more open to debate.

**5.) It is not the role of government to increase or stabilize farmers' incomes.** The proposal can increase the amount of land available on a particular parcel increasing the economic viability of the facility. It can increase the profitability to the farmer as an additional income stream. However, it is not the job of the Howard government to do so, any more than it is to increase the income stream of any other resident. The argument that the changes could incentivize property owners to participate in land preservation is bogus. It is of no benefit to the rest of the county residents who agreed to sacrifice in order to have farm land available in the west to be used for farming. It is not at all uncommon for farm families to have some other form of part time employment. If the farm family feels they cannot make the income level they desire—even with lower property taxes and Ag Pres funding, then perhaps they should consider selling. There will always be another individual willing to escape high density areas to give farming a go.

**6.) The role of the ALP Board needs to be strengthened.** As written, their role in the review process would not be similar to Forest Conservation and Wetland Mitigation requests on ALPP

property. In this case the Board would only be able to give recommendations to DPZ for inclusion of their technical report. Perhaps this is where change needs to be made. The Board needs to have more power when it comes to the placement of solar panels so that agricultural expertise would be a primary consideration. This expertise should be shared early in the process.

7.) **Increases have already been provided.** ALPP purchased easements represent the vast majority of preserved land totaling almost 15,300 acres. Prior to 2013 Comp Zoning outdoor conditional use area for preservation easement could not exceed a quarter of an acre. During Comp Zoning it was changed instead to 2% of the parcel size in order to accommodate larger operations. What other changes can we anticipate for other things passed during Comprehensive Zoning if a change this large and significant can be passed at this time?

8.) **Will this not further complicate the cluster subdivision process?** Many residents in the West are already upset with how the cluster subdivision process is playing out.

9.) **Why is solar the only energy alternative being considered** at this time? Is it simply that it is the first alternative energy industry to be so heavily promoting itself? Could an unexpected consequence of this legislation be to preclude other, less obtrusive forms, such as wind and geothermal? These alternatives would occupy far less land, leaving more for actual farming—the raising of crops or animals.

## **CONCLUSIONS: Just say NO**

- 1.) Commercial solar facilities should not be permitted on agricultural preservation parcels or easements. To do so would break the public trust.
- 2.) While this bill clearly benefits farmers and solar companies it is hard to determine the benefit to the general public.
- 3.) Commercial solar facilities are not agriculture and therefore any land populated with such solar facilities should lose the reduced agricultural property tax assessment.
- 4.) Tillable ground should not be covered with solar panels whether within Ag Pres or not. It is not much different than constructing homes on farms where both instances negate agricultural purpose and result in covered ground regardless.
- 5.) If we are to accept the argument that intercropping underneath the solar panels and/ or the grazing of certain livestock among the solar panels is a viable and compatible use, why not require such truly agricultural endeavors as part of a condition of having solar panels?

6.) Other less visually obtrusive forms of alternative energy production (such as wind and geothermal) should not be precluded by a solar farm bill since those alternatives use less land, making traditional agricultural functions of raising crops and livestock more possible.

7.) Solar panels are not without health risks—both in their production and their disposal.

8.) There is no need to sacrifice our farmland in order to support green energy initiatives when there are acres and acres of commercial property roofs that could be used instead.