

County Council of Howard County, Maryland

2019 Legislative Session

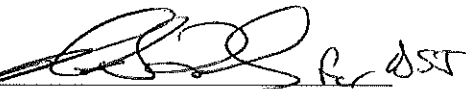
Legislative Day No. 12

Resolution No. 133 -2019

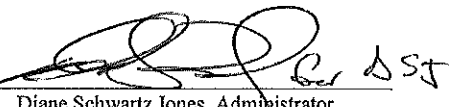
Introduced by: David Yungmann

A RESOLUTION ~~creating a Task Force~~ directing the Environmental Sustainability Board to facilitate a Commercial Solar Facilities Task Force to study commercial solar facilities on ~~agricultural land preservation parcels and related matters.~~

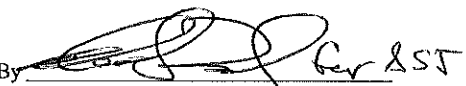
Introduced and read first time October 7, 2019.

By order  DST
Diane Schwartz Jones, Administrator

Read for a second time at a public hearing on October 21, 2019.

By order  DST
Diane Schwartz Jones, Administrator

This Resolution was read the third time and was Adopted, Adopted with amendments ~~Failed, Withdrawn,~~ by the County Council on November 4, 2019.

Certified By  DST
Diane Schwartz Jones, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, Council Bill 39-2012 established a Conditional Use for commercial
2 solar facilities in the RR and RC zoning districts, but specifically excluded the use on
3 parcels encumbered by environmental conservation or agricultural preservation
4 easements; and

5
6 **WHEREAS**, Council Bill 59-2016 expanded the commercial solar facility
7 Conditional Use to properties encumbered by agricultural preservation easements, and
8 exempted the use from the existing Conditional Use size limit of two (2%) percent of the
9 easement property area; and

10
11 **WHEREAS**, Howard County should balance its clean energy goals with the
12 conservation of prime farmland, forests, waterways, and wetlands; and

13
14 **WHEREAS**, the application procedures, approval processes, size, siting, and
15 other requirements for commercial solar facilities need a comprehensive review; and

16
17 ~~**WHEREAS**, Section 902 of the Howard County Charter authorizes the creation~~
18 ~~of temporary advisory boards of citizens to study policies and issues.~~

19 **WHEREAS**, Section 6.600(i)(8) of the Howard County Code provides that at the
20 directive of the County Executive, or by resolution of the County Council, the
21 Environmental Sustainability Board shall review and make recommendations on any
22 matter related to environmental protection, preservation, or sustainability in Howard
23 County.

24 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard
25 County, Maryland, this 4th day of November 2019 that there is the
26 Environmental Sustainability Board is charged with facilitating a “Commercial Solar
27 Facilities Task Force” to study commercial solar facility installations on agricultural
28 preservation parcels.

1
2 **AND BE IT FURTHER RESOLVED** that the Task Force consists of the
3 following members:

- 4 1. Two members of the Agricultural Land Preservation Board, selected by the
5 Board;
- 6 2. One representative from Maryland Clean Energy Advisory Council, selected by
7 the Council;
- 8 3. One representative from the Maryland-DC-Delaware-Virginia Solar Energy
9 Industries Association, selected by the Association;
- 10 4. Two representatives of the Howard County Farm Bureau, selected by the Bureau;
11 and
- 12 5. One representative from the Howard Soil Conservation District, selected by the
13 District;
- 14 6. One representative who represents residents who benefit from community solar,
15 selected by Maryland SUN (Solar United Neighbors);
- 16 7. Two representatives from the Environmental Sustainability Board, selected by the
17 Chair of the Board;
- 18 8. Two representatives from the Office of Community Sustainability, selected by the
19 Office Administrator; and
- 20 9. Two representative from the Department of Planning & Zoning, selected by the
21 Department Director.

22
23 **AND BE IT FURTHER RESOLVED** that the Task Force Environmental
24 Sustainability Board shall select the chairperson of the Task Force.
25

26 **AND BE IT FURTHER RESOLVED** that the Task Force shall hold meetings,
27 including at least one public hearing, and receive testimony as the Task Force considers
28 appropriate.
29

30 **AND BE IT FURTHER RESOLVED** that the Task Force shall investigate and
31 make recommendations about:

- 1 1. regulations governing the size, location, and siting of commercial solar facilities;
- 2 2. application procedures and approval processes for commercial solar facilities;
- 3 3. the role of the Agricultural Land Preservation Board in the commercial solar
- 4 facility policy and approval process;
- 5 4. conditional use parameters; and
- 6 5. circumstances or exceptions when solar facilities may be installed on agricultural
- 7 preservation easements without a conditional use application;:
- 8 6. methods and strategies for integrating commercial solar facilities and agricultural
- 9 practices and pollinator habitat;
- 10 7. potential incentives for ground mount, carport, and rooftop commercial
- 11 installations across the County; and
- 12 8. recommendations for updates to zoning regulations to encourage more high-
- 13 quality solar projects across the County.

14 **AND BE IT FURTHER RESOLVED** that the Task Force shall:

- 15 1. present its findings and recommendations to the County Council and the County
- 16 Executive on or before July 1, 2020;
- 17 2. supplement those findings and recommendations once the Governor’s Task Force
- 18 on Renewable Energy and Siting (Executive Order 01.02.2019.09) has issued its
- 19 final report; and
- 20 3. terminate thereafter.

21

22 **AND BE IT FURTHER RESOLVED** that the County Solicitor, the Department

23 of Planning and Zoning (ALPP Administrator), the Office of Community Sustainability,

24 and the Howard County Economic Development Authority are requested to assign

25 appropriate staff to assist the Task Force in its work.

Amendment 1 to Council Resolution No. 133-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 13
Date: November 4, 2019

Amendment No. 1

(This amendment:

1. Charges the Environmental Sustainability Board with facilitating a Commercial Solar Facilities Task Force;
2. Adds members to the Task Force;
3. Adds to the items to be investigated by the Task Force; and
4. Amends the title accordingly.)

1 In the title, strike “creating a Task Force” and substitute “directing the Environmental
2 Sustainability Board to facilitate a Commercial Solar Facilities Task Force” and strike “on
3 agricultural land preservation parcels” and substitute “and related matters”.

4

5 On page 1, strike lines 17 and 18, inclusive and in their entirety and substitute:

6 “WHEREAS, Section 6.600(i)(8) of the Howard County Code provides that at the directive of
7 the County Executive, or by resolution of the County Council, the Environmental Sustainability
8 Board shall review and make recommendations on any matter related to environmental
9 protection, preservation, or sustainability in Howard County.”

10

11 On page 1, in line 21, strike “there is” and substitute “the Environmental Sustainability Board is
12 charged with facilitating”.

13

14 On page 1, in line 22, strike “on”.

15

16 On page 1, in line 23, strike “agricultural preservation parcels”.

17

18 On page 2, in line 6, strike “and”.

19

20 On page 2, in line 8, strike the period and substitute a semicolon.

ADOPTED November 4, 2019
FAILED
SIGNATURE Diana A. Jones

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On page 2, in line 9, insert:

- “6. One representative who represents residents who benefit from community solar, selected by Maryland SUN (Solar United Neighbors);
- 7. Two representatives from the Environmental Sustainability Board, selected by the Chair of the Board;
- 8. Two representatives from the Office of Community Sustainability, selected by the Office Administrator; and
- 9. Two representative from the Department of Planning & Zoning, selected by the Department Director.”.

On page 2, in line 10, strike “Task Force” and substitute “Environmental Sustainability Board”.

On page 2, in line 23, strike “and”.

On page 2, in line 25, strike the period and substitute a semicolon.

On page 2, in line 26, insert:

- “6. methods and strategies for integrating commercial solar facilities and agricultural practices and pollinator habitat;
- 7. potential incentives for ground mount, carport, and rooftop commercial installations across the County; and
- 8. recommendations for updates to zoning regulations to encourage more high-quality solar projects across the County.”.

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 12

Resolution No. 133 -2019

Introduced by: David Yungmann

A RESOLUTION creating a Task Force to study commercial solar facilities on agricultural land preservation parcels.

Introduced and read first time October 7, 2019.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

Read for a second time at a public hearing on October 21, 2019.

By order Diane A. Jones
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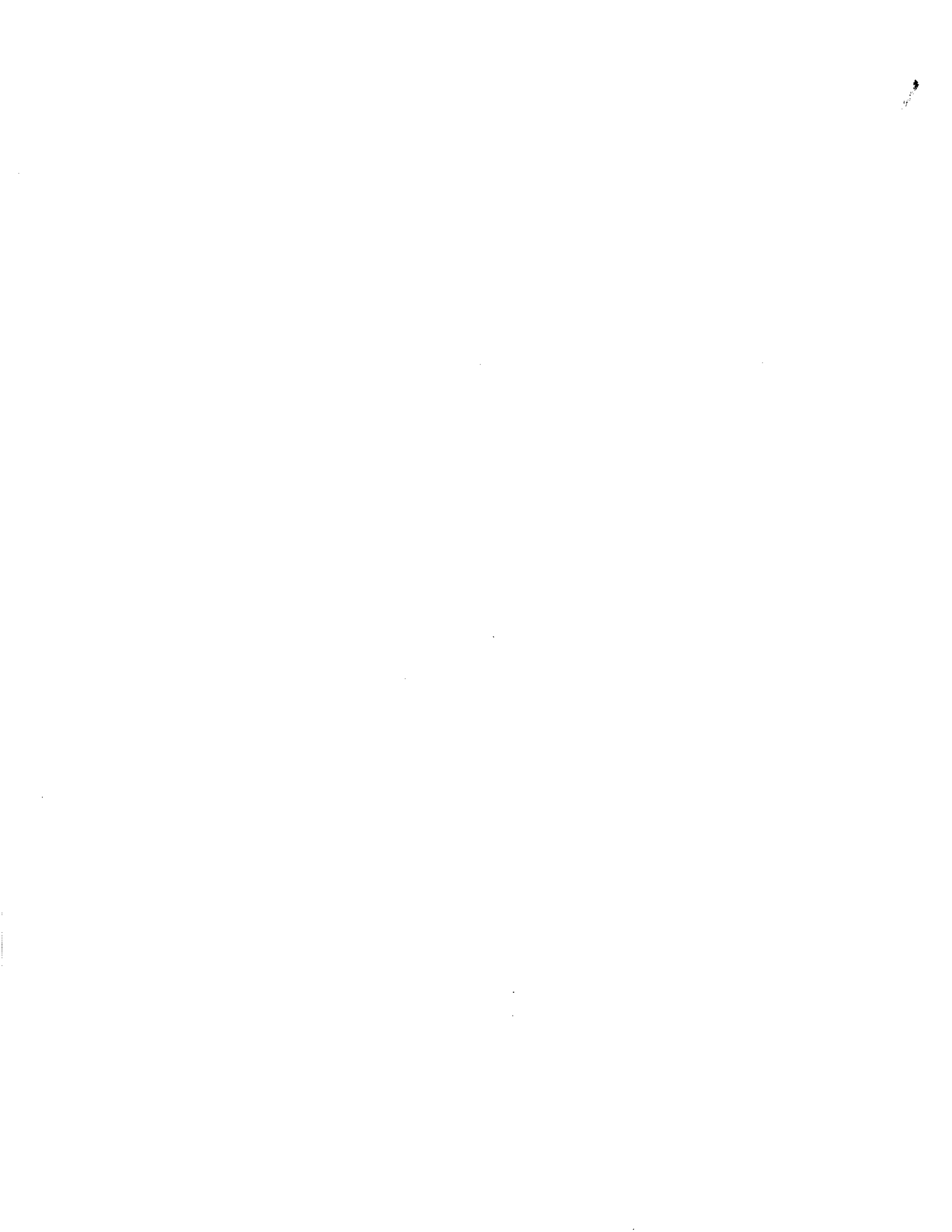
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2. One representative from Maryland Clean Energy Advisory Council, selected by the Council;
3. One representative from the Maryland-DC-Delaware-Virginia Solar Energy Industries Association, selected by the Association;
4. Two representatives of the Howard County Farm Bureau, selected by the Bureau; and
5. One representative from the Howard Soil Conservation District, selected by the District.

AND BE IT FURTHER RESOLVED that the Task Force shall select the chairperson of the Task Force.

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BY: The Chairperson at the request
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Legislative Day 13
Date: November 4, 2019

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Sayers, Margery

From: Rigby, Christiana
Sent: Thursday, October 31, 2019 11:57 AM
To: Sayers, Margery
Subject: FW: Follow up on work session CB 55 and CR 133
Attachments: HC ZRA 164 TFM.pdf; CSF Conty Exec Mtg copy.pdf

From: Theodore Mariani <theodore.f.mariani@me.com>
Sent: Wednesday, October 30, 2019 2:03 PM
To: lwalsh@howardcountymd.gov; Jones, Opel <ojones@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>
Cc: Rigby, Christiana <crigby@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>
Subject: Follow up on work session CB 55 and CR 133

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Council Members

I attended the work session on Monday, 28 October, anticipating that I would be called upon to describe in some detail our support for CB 55 and CR 133. AS it turned I was never called upon, which is surprising in that I was the sole representative present of the three Citizen's Associations that testified at the hearing.

That being the case I would like to provide you further information in support of the rationale for approval of CB 55 and CR 133.

The history of the legislation that allows CSF's on Ag Pres land is as follows:

- 1) The original proposal allowed 75 acres of an AG Pres farm to be covered by a CSF without any limitations other than a 50 setback from property lines and that the applicant had to submit the project for a conditional use.. This was heard by the Council sitting as the ZB and another requirement was added namely that the project had to be reviewed by the Ag Board, which would make a recommendation on approval or denial.
- 2) The Ag Board subsequently discussed how they would determine the acceptability of a project that came before them. The criteria for review stipulated that no more than 34% of the total farm acreage could be devoted too the CSF. Their assumption being that the 66% remainder would constitute a primary agricultural use. This assumption turned out to be flawed when actual cases began to come to them for review. In one case, Broadwater Lane, the strict application of the criteria resulted in more than 50% of the actual tillable land being occupied by a CSF. A second problem was that even if there 34% to 66% ratio was maintained there income generated bye the CSF far out weighted the income generation capacity of the remainder in Agricultural use.
- 3) Faced with this unanticipated result the Ag Board at it's September 2019 reopened the question of the application of it's criteria and made a decision to drastically revise it to bring it into compliance with their original intent that the Agricultural use of the farm should remain paramount and that the CSF should be a subordinate use. To achieve this they amended the criteria to allow only 10% of the farm and no more than 10 acres too be devoted to a CSF. In addition they imposed other conditions that spoke to the need to preserve the best tillable acreage for crops and that the CSF should be located to do the least interruption to the primary agricultural use.

We are at a point now where several projects have gone through a portion of the approval process and received a positive recommendation from the Ag Board based on its flawed and now abandoned criteria. Since there have yet to be public hearings on these projects it is not too late to make a course correction.

Further, we now have a state wide effort underway to establish a unified approach to the development and siting of all forms of sustainable energy. The preliminary results of that work should be available in early 2020. This will give Howard County an opportunity to reconcile its program for sustainable energy with the state policy in this regard.

It was also pointed out that Howard County is now out of sync with our neighboring counties, none of which allow CSFs on preserved land.

In light of these facts it would be prudent to enact a moratorium on all CSF projects, including those that are in process but not yet approved,

In regard to the Task Force that has been proposed under CR 133 I would like to reiterate that there should be representatives of the the resident communities that are directly affected by these CSF projects. The Task Force as proposed is unbalanced and without resident participation will be perceived as ignoring the community and its citizens who have year after year supported their purpose and the funding of the Ag Pres program.

I am attaching other documentation on this matter that that you might find helpful in your deliberations.

Theodore F. Mariani FAIA PE MCRP
President Concerned Citizens of Western Howard County

Statement of Theodore F. Mariani FAIA PE MCRP
16449 Ed Warfield Road
Woodbine Md. 21797

In RE : Case Number ZRA 164 which would change the zoning regulations to allow Commercial Solar Facilities on Agricultural Land Preservation Parcels and on dedicated easements including those in cluster subdivisions.

As a long time resident of Howard County and owner of a 185 acre farm that my wife and I put the Howard County Agricultural Preservation Program over 24 years ago , I am firmly opposed to this proposed zoning change.

My understanding of zoning impacts is based on a long and deep involvement with zoning and development in both Howard County and the greater Washington Metropolitan area.

,My first concern is the violation of trust that this proposal embodies. Based on Section 15.501 thru 15.510 of the Howard County Code the Ag Pres program's purpose was" to protect and enhance agricultural land in Howard County".

To that end the landowners that entered the program joined in a covenant with the county to ensure the accomplishment of that intent. I quote from the exact wording of the agreement that we entered into with the county

"the Grantor covenants ,grants and relinquishes the right to develop the Land for any purpose except those which are related directly to or as an accessory use of the premises for farming and agricultural purposes" The covenant then proceeds to explain in detail which development rights are not allowed The development rights that are relinquished "include , but are not limited to , the right to develop the Land for use in the following manner:

(1) industrial or commercial uses "

Other uses were cited as not being allowed including residential development but it is clear that the first among the various uses that were prohibited were : "Industrial or commercial uses" Further this relinquishment of the right to use the land for industrial or commercial purposes is to be "in perpetuity".

It is abundantly clear that a large scale " solar farm" is both an industrial and commercial use Generation of electrical power for sale to the public is clearly not an agricultural pursuit. To argue otherwise would be illogical.

Further to change the purpose of the original legislation that created the County Ag Pres program would be a violation of the basis on which the program was presented to and endorsed by the citizens of Howard County. It would also be a violation of the covenants that cover every farm that is in the program.

Recognizing that vast sums of tax funds have been expended to put the program in place it is quite likely that an aggrieved adjacent land owner and taxpayer could sue the county for misappropriation of tax revenues.

A second issue is the huge scale of the potential power generating system. that would be allowed under this ZRA. Most farms in Howard County are relatively small Many farm sites are 100 acres or less, yet on a 85 acre parcel one could install a 75 acre solar array. with only 50 foot setbacks from adjacent properties.

A 75 acre field of solar panels (equivalent to 70 football fields) adjacent to residential development would be overwhelming.

One should also recall that when farms were admitted into the program they are scored based on the quality of the land for productive farming operations. Only the superior sites were admitted to the program. Thus when you place an array of solar panels on the site you are eliminating the best farm land from agricultural production..

Another consideration is that essentially all of the preserved farms are in the Non Planned Service Area and rely on well water . Most crops including wheat, corn, soybeans, alfalfa, timothy etc. depend only on the natural rainfall for moisture. A field of solar panels has to be periodically cleaned to work at maximum efficiency This requires washing with water and detergents. Thus you have a two fold problem, depletion of ground water and the dispersion of chemical cleaners into the soil.

It should be noted that while certain "accessory uses are permitted on Ag Pres land they are allowed only to support the primary purpose of the farm and are quite restricted in scale For example almost all are limited to 2% of the land area and up to a maximum of 1 acre. In no case are they to become a replacement for agricultural production.

Let us now turn to the other dedicated easements including the preservation parcels in cluster subdivisions.

Here we have a rather unique problem. Most of the cluster preservation parcels are intertwined with the residential lots of the subdivision , in some cases resembling an octopus. To allow a huge solar array in such close proximity to residences can have many adverse impacts some off which can not be foreseen Solar reflections can be more than troublesome. A case in point being the Los Angeles Concert Hall which had a stainless steel cladding that inadvertently, focused sunlight on a neighboring residential building . The solar heat gain was so severe that the apartment units were rendered almost uninhabitable,which led to a law suit against the city. The city ultimately spent several million dollars to rectify the situation.

Another concern would be the emotional and economic effect on the near by residents. These folks bought into the cluster arrangement with the expectation that the uses of the preservation parcels would be rather benign. Typically these uses have been farmers or landscapers growing crops or plant stock, which is visually and functionally compatible with residential use. When the Cluster zoning concept was envisioned by the commission that I chaired ,this is the type of use that was intended This was codified in the regulations to limit any intensive development on these parcels. A massive industrial/commercial solar array was never contemplated and is not consistent with the intent of the regulations.

The question is what purpose is being served and at what cost?

Putting solar panels on roofs, or over parking areas generally makes sense. Creating huge solar arrays in a remote area on scrub land is appropriate, and most large scale solar installations have this in common . But to use preserved prime agricultural land or land that is embedded in residential development for an industrial purpose flies in the face of reason.

Converting a farm field into a solar facility could be appealing to some in the farming community since a lease rate for a commercial solar installation is 15 to 20 times what crop land can bring under a typical lease. The fact that farm land is leased at the current modest rate is what makes farming practical in Howard County.

A typical Howard County farmer owns about 100 to 200 acres but through leasing can be farming 1000 acres or more. This is the benchmark for a sustainable crop farming operation. If the preserved farms are put into non farm uses such as solar power stations these farmers will lose access to this essential resource.

Solar power can have a place on a farm as a source of energy for the farm. And if in the process some excess power is created it can be put back into the grid to provide added income to the farm operator. This could qualify as an accessory use especially if a modest sized solar array were placed on barn and shed roofs or over impervious surfaces.

Conversion of prime farm land for huge industrial scale power generation is not in the best interest of Howard County. The use of dedicated preservation parcels within cluster subdivisions for large solar arrays is not in keeping with the intent of the program that established this regime. Recall that the cluster approach had two principal rationales first to head off the proliferation of 3 acre lots throughout the RR and RC zones and to preserve a significant percentage of the sites for farming and farm related activity.

For the reasons stated this ZRA should be rejected.

Professional Qualifications of Theodore F. Mariani FAIA PE MCRP

In his sixty year professional career as an Architect Engineer and Planner he has designed over 500 projects including University Master Plans, Hospital Campus expansions, a satellite community in Prince Georges County and the Washington DC Convention Center.

He has served in numerous positions that have involved local and regional development. These have included:

- Land Use Committee of the Washington Regional Council Of Governments
- Chairman of the District of Columbia Zoning Commission
- National Vice President of the American Institute of Architects
- Chairman of the Howard County Commission that formulated the Cluster Development and Density Exchange Option to the Zoning Regulations for the preservation of farmland
- Chairman of the Howard County Planning Board
- Member of the Howard County Commercial Nodes Study Group
- Member of the Citizens Advisory Panel for the Howard County General Plan
- Member of the Howard County Mulch and Composting Task Force

Currently he is serving as :

- President of the Concerned Citizens of Western Howard County
- President of the Howard County Historical Society

Meeting with County Executive re Commercial Solar Facilities
10 March 2017

Points to Consider

The process that led to the adoption of ZRA 164 was seriously flawed

DPZ reached out to the Ag Bd for advice on the merits of the ZRA. The Bd members though well intentioned did not have the requisite knowledge of land use (other than farming) to weigh the impacts of this bill on the surrounding parcels. Further there was an inherent potential conflict of interest, since some of the Bd Members might avail themselves of the financial gain associated with the program.

One board member sat through all of the sessions concerning Ag Bd deliberations on Commercial Solar Facilities (CFS) and only on the very last session and just prior to the vote to approve the criteria for acceptance did he recuse himself. He stated that he would not vote since he was considering entering into a CSF contract on his farm.

The actions of the Ag Bd in first endorsing the ZRA, testifying in support at both the PB and the ZB hearings and finally preparing criteria for guidance to the HE were instrumental in the ZRA being approved.

DPZ failed to fully investigate all of the impacts and unintended consequences of the ZRA such as its direct conflict with the HC Code. Further DPZ's did not at any point

prior to the PB hearing ever alert the citizens of the county that this major change to the Ag Program was afoot.

As a result there was no input during the gestation of the ZRA from those who would be directly impacted including adjacent neighbors and those home owners who had bought into cluster subdivisions.

The HC Office of Law likewise did not do an exhaustive and rigorous review of the ZRA to reconcile the many conflicts that were inherent in the ZRA such as HC Code, Enabling Legislation for the Ag Prom, existence of restrictive covenants on Ag Pres properties as well as other dedicated easements .

And finally the Council sitting as the ZB gave short shrift to the concerns of the citizens who spoke against this , while embracing the comments from the industry lobbyist and the farm community who clearly had a vested interest

These cumulative failures to fully vet the ZRA and respond to the pleas of the residential community have brought us to this point. We now have created a farmer versus neighbors conflict that need not have existed .Three citizen organizations have joined to oppose this conversion of farm land to a commercial/ industrial scale use. (this is not unlike the furor that erupted over the use of Ag Pres land for Industrial Scale Mulching).

Summary of Issues

1 ZRA violates HC Code

2 Violates Ag Program enabling legislation

3 Changes the basis on which Cluster subdivisions were envisioned and created. Those buying into Cluster subdivisions were led to believe that preserved parcels would not be used for commercial purposes.

4 Violates existing covenants that are meant to maintain in perpetuity the agricultural or open space use of the preserved farm or parcel.

5 CSF 's are not agriculture

6 Ag Bd criteria is advisory and not binding, even so the idea that allowing 34% of the entire site to be covered with a CSF while less than 50% were required to be farmable is beyond comprehension. (Note that MALPF allows only 5% of farm and maximum of 5 Acres to be in a CSF)

7 ZRA 164 allows an unlimited % of farm and up to 75 acres in a CSF

8 Conflicts of interest will be challenged if this process is allowed to go forward.

9 A further possible outcome would be that farms that now have a CSF would become eligible to enter the Ag Program after having profited from installing a CSF on their land.

10 One of the key features in joining the Ag Program was the ability to get a tax credit for the difference between market value of the farm and what the county paid for development rights. It is my understanding that IRS could well seek to recapture these taxes if the land is put to a commercial use. Further as with the state program, which was partly funded with federal dollars the feds would have to sign off non any conversion of farmland non commercial use.

11 A feature of the current program is the ability to covert one acre of land into house lot for every 50 acres in preservation. However to do so the farmer must refund in full the amount he received for that land. Why not have the same requirement for land taken out of agricultural use for a CSF?

12 Solar industry lobbyist stated that the land covered with the CSF could easily be restored to farming after the end of the 30 year lease . No one to my knowledge has examined the effects of the solar panels on the land during the lease period (erosion etc) or in fact what would be required to put the land back into production.

This also begs the question , that if economically viable , why would the land ever be returned to farming.

13 Impact on farming in Howard County . All larger scale farmers in the county except those few who have created special value added features (LarriLand and Ellioak) require

access to about 1000 acres to maintain a successful operation. Since not one farmer in the county owns 1000 acres a sustainable farm business is only possible through rental of other farms.

Farm land currently rents for \$100 per acre per year. Solar developers are offering as much as \$1500 per acre per year. This financial inducement could have a dramatic effect on the inventory of farm land available to the farm community.

What to do

Put a 12 month moratorium on the ZRA implementation while all of these issues are sorted out and resolved. During that period seek expert opinion as well as input from both the farm and residential communities that are affected by the ZRA. The county would then have a basis for proceeding with a rational plan.

Sayers, Margery

From: Jennifer Ramelmeier <holistic.dvm@gmail.com>
Sent: Wednesday, October 30, 2019 9:02 PM
To: CouncilMail
Subject: oppose CB55 and CR 133

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear council members,

Please do not pass this bill. I have always taken pride in how forward thinking we are as a county and this bill is a clear step backwards.

please please we don't have the time to waste as far as climate change!!! If we act now we can roll back our carbon imprint with operations such as solar community fields. It is imperative that progress not be impeded.

sincerely

Dr Ramelmeier

Jennifer Ramelmeier, DVM, CVH
410-531-9213 Office
410-741-3545 Fax
www.pureholisticvet.com

Sayers, Margery

From: Keith Ohlinger <kohlinger05@verizon.net>
Sent: Monday, October 28, 2019 12:03 PM
To: CouncilMail
Cc: kohlinger05@verizon.net
Subject: CB 55-2019, CR 133-2019 In Support Of.
Attachments: Alternative Energy - revised 7-1-19 MALPF.docx; CB 55-2019, CR 133-2019 Testimony
Keith Ohlinger In Support of.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Howard County Council:

Please accept my written testimony in support of CB 55-2019 and CR 133-2019. See you shortly!

Keith Ohlinger
Porch View Farm LLC
Cell # 240-893-1718

ALTERNATIVE ENERGY REQUESTS ON-FARM USES (NON-COMMERCIAL)

General Guidelines of Alternative Energy Requests (wind, solar, etc) on MALPF Easement properties for ON-FARM USES (agricultural and residential) – NOT COMMERCIAL OPERATIONS.

In order for the MALPF to consider the request, the following information will be needed. The big picture issues to address are if any acres are coming out of production, assurances that the majority of energy generated will only be used on-site, and is the power generated used only on the specific property for agricultural and/or residential uses of the easement property (or possible on another MALPF easement property owner same ownership). The MALPF Board allows for energy to be generated up to 125% of the on-site usage, with the landowner allowed to be reimbursed by the energy provider for the amount (up to 25%) of the excess power generated.

Documents needed to submit request to MALPF:

1. Request letter from landowner.
2. Maps showing location of placement of wind turbines/solar panels - what was that area previously used for (meaning, is land coming out of agricultural production to put in solar panels, including access to the solar panels).
3. How much energy will be generated from the alternate energy source - versus energy consumed on site.
4. Copies of a winter, spring, summer, fall electric bill to show Board amount of energy consumed on site –OR- a 12-month usage history, either as shown on the most recent energy bill, or provided by the energy provider within one month of the date of the request.
5. Explanation of the proposed use. If the energy produced is intended for consumption by properties other than the property on which the alternative energy source will be installed, the request will have to be considered by MALPF's Board of Trustees. MALPF Board approvals have been limited to: a) use on MALPF easement properties in common ownership with the property on which the proposed alternative energy source will be used; or 2) adjoining MALPF easement properties regardless of ownership.
6. Letter from alternative energy consultant/provider explaining the system they will create and how much energy it is estimated to produce in a year.
7. Local ag advisory board approval.

On January 28, 2014, the Board designated the authority to approve alternative energy requests for on-farm use to MALPF Staff if the request follows these guidelines and there is nothing about the request that is unique/outside of previously approved alternative energy installation approvals.

On February 28, 2017, the MALPF Board decided that roof-mounted solar systems for on-site residential and agricultural use only do not need to be approved by the Foundation.

CB 55-2019, CR 133-2019 In Support of

28 October 2019

Keith Ohlinger
2790 Florence Road
Woodbine, MD 21797

Dear Howard County Council:

Please accept this as my written testimony on CB 55-2019 and CR 133-2019. I am making this testimony as a private citizen.

Questions such as agricultural preservation, Tiers, and solar all stem from the fundamental issue that commodity crops are not paying the bills on farms anymore like they had 50 to 70 years ago. The crises we currently face in agriculture and those from the 1980's are all interrelated. A review of the 2017 Census of Agriculture Howard County Profile shows the situation quite well:

https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Maryland/cp24027.pdf

Kathy Johnson of HCEDA states that agriculture ranks in the top 5 industries in Howard County. It is the number one industry in the State of Maryland. However, as you heard in Mark Mullinix's testimony prices have remained stagnant for decades for many commodity crops. This is indicated by the total market value of products sold versus the net farm cash income, \$27,259,000 versus an average of \$6,513! The poverty level in Maryland is \$12,140 for a single person and \$25,100 for a family of four! This is what accounts for the drop in the number of farmers and for the data indicated under "Total Producers" from the 2017 Census. We have 178 farmers over 65, 316 between 35-64, and only 19 under 35 years old. In any biological group in nature these numbers are not sustainable for a population. I testified on the drop in the number of farmers and farms during the public hearing last Monday night. In the 1900 Ag Census there were 1214 farms in Howard County, the latest numbers from Kathy Johnson at HCEDA are 300 farms. The land farmed in 1900 was 146,039 acres and as of 2017 there was 32,436 acres farmed in the County with 22,349 of it preserved.

The challenge for you as elected officials in your Council career is: Do you want to preserve actual working agriculture in Howard County or do you want a bunch of millionaires pretending to farm? Millions of County dollars have been spent to preserve land for farming, but very little effort has been made to support the act of farming and fostering community support for the industry itself. Without a real and concerted effort, we will continue to die the death of a thousand cuts and eventually end up a mere green space program. If that is the effort you wish to exert, then I encourage you to allow solar coverage of 100% on agricultural easements in the County because then at least we will serve a useful purpose. I deeply hope instead that you will support actual working agriculture.

The Agricultural Land Preservation Easement language on our farm states:

Article III. Agricultural Uses and Activities

Agricultural uses are expressly permitted on the Preservation Easement Area and are defined in Section 15.502 of the Howard County Agricultural Land Preservation Act as follows:

“Agricultural use” means farming and includes:

- (1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, Silviculture, aquaculture, and animal and poultry husbandry;
- (2) The breeding, raising, training, and general care of livestock for uses other than food, such as sport or show purposes;
- (3) Construction and maintenance of barns, silos, and other similar structures, the use of farm machinery, the primary processing of agricultural products and the sale of agricultural products produced on the Property where the sales are made; and
- (4) Other uses directly related to or as an accessory use of the premises for farming and agricultural purposes.

There is no mention of solar power in the document. The only connection between the two is that solar is land intensive and farms have land. Farms do use power and having solar available to provide on farm power is reasonable. The person who testified on Monday night is to be applauded for her honesty and integrity. When Councilman Yungmann asked why solar needed to be on preserved land instead of all the other unpreserved land she stated “because it doesn’t pencil”. The power companies have no interest in the farmer, they are not trying to save a noble profession, it just makes them more money and the bigger project the better.

The original intent of the solar discussions statewide on Ag boards was to help supply farmers with an income on less productive land. If the poles were high enough animals could be grazed underneath, some shade tolerant crops could be grown. This “stacking” could help a great deal with profits. However, the greed of the power companies had none of that in mind. They put nondisclosure agreements on all parties, fenced in the parcels; put it in the center of farms to screen it from the neighbors, regardless of soil types, put the panels too low to be useful and told farmers to stay out. At best they planted unmanaged “pollinator habitats” which turned into weed lots without proper care. We certainly did not want to put farmers in competition with power companies and investors to purchase local farmland and that is exactly what we got!

Solar should be considered in an extractive resource category such as oil, natural gas, or coal found on a parcel of ag preserved land and managed as such. The bulk of the power should provide for the farm with minor overages sold off into the grid. The MALPF program has language for this:

Excavation; Surface and Subsurface Extraction.

The Land encumbered by this Easement includes all surface and subsurface rights. By way of example and not limitation, these surface and subsurface rights include, all mining, drilling, and quarrying rights and all rights to excavate or remove subsurface oil, gas, sand, gravel, shale, limestone, crude petroleum, natural gas, clay, ceramic, fertilizer minerals and deep mined minerals, including bituminous coal. Grantor shall not sell, transfer, encumber, lease, or otherwise separate any mineral rights, currently owned or later acquired, from the Land without the express written approval of the Grantee. Grantor shall not grant any rights of ways, easements, or rights of entry, or physically establish roadways across the Land for purposes of

surface or subsurface excavation and mining, including drilling, on the Land or other lands. All manner of on-site surface excavation and mining, including drilling, is prohibited, except for customary Agricultural Uses consistent with the Plan required by Section H. of Article III. Off-site subsurface extraction may be permitted only if it originates outside a reasonable buffer from the Land's boundaries with the prior written approval of Grantee, and, if applicable, in accordance with Treasury Regulation 1.170A-14(g)(4). In contemplating approval of off-site subsurface extraction, Grantee shall consider whether the impact to the Land and the Agricultural productivity will be limited and localized, or will be irremediably destructive of Conservation Values. Grantee may impose conditions on its approval of subsurface extraction.

I am attaching the MALPF language on solar as well. I believe the Howard County Ag Preservation Board has made reasonable steps to correct these issues in their new policy recommendations and I support CB 55-2019 and CR 133-2019. I believe the current 5 or 6 projects on the docket should be grandfathered in, given the work completed, I believe it is only fair. It sounds like the hiring of a Hearing Examiner is underway but I encourage this as quickly as is reasonably possible.

I recommend that the County Council and County Executive take steps to insure the future of agriculture in Howard County. We need a strong advocate to be there when the farmers individually cannot. I encourage the County to create a Department of Agriculture similar to Montgomery County. Kathy Johnson would be an excellent choice to head the Department. If she is unavailable, I respectfully submit myself for consideration.

The second need is a strategic plan for agriculture in the County. We have tried for this in the past and it was funded but when the administration changed and Jim Caldwell retired the project was pushed aside. The best we got was two sentences in the HCEDA Strategic Plan:

- Agricultural Marketing Program: Continue to work with the farming community as their constant advocate on agriculture-related legislation and business development. Provide support related to zoning, permitting, business planning, financing, grant writing, locally grown initiatives, and diversifying farm production.

A strong, regularly reviewed strategic plan will give clarity to leadership as to the state and direction of agriculture in the County prior to bills being filed and ideas being floated.

Thank you for your consideration in this matter, I urge your support of support CB 55-2019 and CR 133-2019, please feel free to contact me with any questions.

Very Truly Yours,

Keith Ohlinger

Sayers, Margery

From: Carolyn Parsa <carolyn.parsa@mdsierra.org>
Sent: Friday, October 25, 2019 2:28 PM
To: CouncilMail; Ball, Calvin
Subject: Testimony CB-55 & CR-133
Attachments: CB55 CR133.2019v6.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Please find attached testimony on CB-55 and CR-133 from the Howard County Sierra Club.

--
Carolyn Parsa
Sierra Club Howard County Chair

Sayers, Margery

From: warren wortman <wortmanwj@yahoo.com>
Sent: Friday, October 25, 2019 12:54 PM
To: CouncilMail
Subject: Oppose B55 and CR 133

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Council Persons,

I urge you to oppose CB55 and CR133. With the urgency of the climate crisis, I see no reasonable logic placing a one-year moratorium on solar farms in the county.

Sincerely,

Warren Wortman
Columbia, MD resident

Sayers, Margery

From: HoCoClimateAction <HoCoClimateAction@gmail.com>
Sent: Wednesday, October 23, 2019 5:15 PM
To: CouncilMail
Subject: Comments on CB55 and CR 133
Attachments: 2019 1021 HoCoCA comments opposing CB55 - bad solar bill .pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

See comments attached - this is a .pdf of the written comments submitted on 10-21-19 for Howard County Climate Action

Ruth Alice White

Ruth Alice White, HoCoClimateAction Advocacy Lead and Steering Committee member
8945 Footed Ridge Columbia Md

Comments from Howard County Climate Action opposing CB 55 and CR 133

Howard County Climate Action is a 12 year old local group working on climate education and advocacy.

We understand that Council member Yungman plans to introduce an amendment limiting CB55 to agriculture preservation easements only, not on all RR and RC zoned properties and this does not change our testimony.

I am aware that multiple groups are submitting written and oral testimony against these bills, and I will try not to repeat testimony I believe the council will get from others.

Howard County's 2030 General Plan and Climate Action Plans speak to the need for Howard County to develop clean and renewable energy sources in the county to meet greenhouse gas reduction goals.

<https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Community-Planning/General-Plan>

<https://livegreenhoward.com/energy/climate-action-plan/>

https://livegreenhoward.com/wp-content/uploads/2018/05/Howard-County_ClimateActionPlan.pdf

Given the urgent climate crisis we cannot delay in developing clean energy resources we need. Our young people are telling us we need rapid action now.

The county just passed legislation, CB 59 in 2016, to allow solar on agricultural preservation lands under certain strict conditions. This is critical to the swift development of solar since solar on farm lands can be larger and produce much more electricity than much smaller installations on rooftops or parking lots. And the roll out of solar on homes is slow.

The Maryland legislature just passed the Clean Energy Jobs Act in 2019 to increase the amount of solar and wind energy in Maryland. We hope that the offshore wind projects being developed will be operational soon. But without a cable under the Chesapeake Bay to connect us, offshore wind is still likely years away. It is critical we develop more solar in Maryland and in Howard County to provide clean energy here.

Most of Howard County's farmland is covered under agriculture preservation rules. (almost 23,000 acres of HoCo's total 32,436 acres of farmland per a USDA Agriculture Survey, 2017). As a result, these bills would stop most of the potential projects in Howard County. Since

proximity to appropriate power hookups is required, only a very small part of Howard County farmland can meet the requirements for solar development.

To get county approval (by the ALPP), projects cannot use more than 33% of a landowners' property, so the majority of any farm that hosts solar will still be available for farming.

The community solar projects, which are not "commercial" projects under PSC definitions, are very small as required under the state community solar pilot project. The proposed community solar projects in Howard County are 1/5 of 1% of the farmland in Howard County. Suggestions that community solar is a threat to farmland or food supply is simply untrue.

We have heard that some farmers (and non-farmers) are concerned that Howard County farms should continue to contribute to Howard County food needs and that we need this food. We also believe local food is a high benefit. But a 2015 study showed that except for chicken, Maryland farms produce only a very tiny percentage of the food Marylanders eat. Although food from Howard County farms is a social good it is NOT nearly enough to feed us.

<https://mdfoodsystemmap.org/wp-content/uploads/2015/04/Maryland-Grown.pdf> In addition, studies have found that food-growing and solar are compatible uses. (See two articles

Crops under solar panels can be a win-win

<https://arstechnica.com/science/2019/09/crops-under-solar-panels-can-be-a-win-win/>

and

Energy and food together: Under solar panels, crops thrive

<https://www.pri.org/stories/2018-06-08/energy-and-food-together-under-solar-panels-crops-thrive>.

Again we note existing law and policies were debated in the previous county council. A deliberate and reasoned process resulted in regulations and policy procedures. We need to give this policy a chance and not precipitously enact a one-year delay that could severely harm the solar industry. This proposal takes a sledgehammer to the policy that supports solar. We are aware of four pending projects (both commercial and smaller community solar projects). Let's not halt on this program before it has a chance. Existing county policy includes detailed guidance and regulation of how much of a parcel can be in solar, the conditions, the amount of remaining land that must be high grade (USDA F-grades I-IV), etc. In other words, it has been methodically and systematically developed to balance agriculture and solar needs.

<https://www.howardcountymd.gov/LinkClick.aspx?fileticket=JNnvr90DsEo%3d&portalid=0×tamp=1492532215477>

For all these reasons and more, we urge disapproval of CB 55 and CR 133

Sayers, Margery

From: Lisa Schlossnagle <lisabmrss@gmail.com>
Sent: Wednesday, October 23, 2019 8:43 AM
To: CouncilMail
Subject: Oppose CB55 - solar moratorium; Undeclared CR133 - solar task force

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council,

Please vote no on CB55, the temporary moratorium on commercial solar facilities.

After watching the public hearing, I feel these are the most important points for you all to consider:

1. Institutions (including legislative bodies) as well as individuals need to do everything they can to reduce fossil fuel production and consumption. Instead, we all need to transition to clean, renewable energy sources. A moratorium on commercial solar facilities at this time seems illogical, unnecessary, and even damaging to the efforts to build a climate-change resilient county and state.
2. Everything Howie Feaga said.
3. The testimony from James Hurt about the financial realities of farming, which supports Ann Jones' testimony that "we need to encourage solar development that is ancillary to and compatible with the main farming operation."
4. The testimony from HoCoClimate Action.

CB55 seems to me like a solution in search of a problem. It should be voted down.

I am undeclared on CR133. On the one hand, it is clear that there is a need to study solar production projects in Howard County. Perhaps a task force is the best approach, perhaps not. I would not like to see a study or task force used to obstruct progress on reaching renewable energy goals. I would also find it very distressing if it had the impact of further pinching our local farmers' abilities to make profits and have sustainable businesses. In addition to the food, fuel, textiles, and recreation services farmers provide, their agricultural land also provides necessary ecosystem services. We want to encourage farming and encourage it to be ecologically and financially sustainable. Our energy and agricultural economies are changing, so our land use policies need to evolve as well. I'm not sure if a task force as specific as the one proposed in CR133 is the way to go, but I am certain you all need to continue study on all the involved pieces.

Sincerely,
Lisa Schlossnagle
Fulton, MD

Sayers, Margery

From: Dan O'Leary <danielol12832h@gmail.com>
Sent: Tuesday, October 22, 2019 12:09 PM
To: CouncilMail
Subject: Testimony Re: CB55 & CR133
Attachments: Testimony CB 55 DOL 191021 Written.pdf; Testimony DOL 160920.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members:

Please see the attached written version of my testimony representing GHCA.

I am also attaching testimony I gave in 2016 regarding the costs and benefits in allowing CSFs on Ag. Pres. parcels, (CB59-2016). I hope it will give you some background and food for thought on the original debate.

Dan O'Leary
Chairman
Greater Highland Crossroads Association
301-854-9424



Greater Highland
Crossroads
Association

October 22, 2019

To: All members of the Howard County Council

Re: CB55-2019 & CR133-2019

Dear Members of the Council:

Please accept this written version of the testimony I gave on October 21, 2019

GHCA has represented dues-paying families and businesses in the Greater Highland area since 2002. Membership is entirely voluntary. We are not an HOA.

I thank Mr. Yungmann for taking the lead on this issue of great importance to those of us in the RR zone which is more vulnerable to commercial uses than the RC because of its greater density. He has listened carefully, asked pointed questions, investigated, attended ALP Board meetings, and acted responsibly.

Please do not label us as opponents of solar or alternative energy sources. We are as concerned about the need to develop them as anyone in the county. However, there is no need to pit one program or objective against another. Why develop solar at the expense of the Ag. Pres. Program? Often government policy requires a balancing act to achieve conflicting goals. There is no need in this instance; the State task force recognizes and encourages alternative, BENIGN sites such as: commercial roofs, parking lots, and industrial zones. In short, there is no need to gut the Ag. Pres. Program, while imperiling neighboring property values and diminishing the neighbors' right to quiet enjoyment of their homes.

We are pro-solar and, but very worried that without this moratorium the Ag. Pres. Program is in danger of ruin.

GHCA and HCCA totally support the strong and reasoned testimony of Mr. Mariani. He characterized the delay to await the state's decision as "both prudent and logical. I go further. It is fair and equitable because it would suspend the 4 pending applications, which if approved, would enjoy a tremendous advantage over subsequent proposals which would be subject to much greater restrictions. This would be far from fair and equitable! These existing applications can only be dealt with by Council action.

Indeed, these 4 cases are the very reason for us being here tonight. Any consideration of grandfathering them would defeat the very purpose of the moratorium and would be a disaster for the Ag. Pres. Program!

Already, the ALP board has recognized the unintended consequences of their previously weak criteria and acted to limit further approvals by:

1. Reducing the maximum CSF to 10 acres or 10% whichever is less. (that would reduce the Broadwater proposal to 6 acres from 19)
2. Raising the requirement for Classes I-III from 50 to 60%.
3. Requiring that the applicant shall demonstrate that the solar is not sited on the most tillable, productive land.
4. Requiring that the applicant must make a good faith effort at minimum disruption to the agricultural operation.

Not one of the 4 current applications would meet more than one of these criteria. Broadwater Farm gets an F on all of them.

The best example of the flawed implementation of the program is the Broadwater farm on which more than 50% of the tillable land would be covered by solar, and the rest would be unused because the parcel would be owned by the power company, not by its current non-resident owner. The farm for all practical purposes would cease to exist.

I urge you recall the testimony of Therese Myers who is directly affected, and I urge you to listen to the solar proponents with the knowledge that if you vote yes, solar still has a bright future in alternative applications in Howard County while your yes vote will help in preserving western Howard's rural farm character.

As to the need for the task force, I could argue either side of the debate.

Task forces in the recent past have had mixed results and contentious sessions that rarely produced real consensus. Ask Mr. Mariani and Mr. Kohn, and others who have served on them for the real background.

On the other hand, the faulty criteria previously developed by the Ag Board was produced with little outside participation with poor results. I believe Mr. Yungmann thinks that community consensus is essential to reach a reasonable result. How can that be achieved without one affected resident on the force? Especially since 2 Ag, Board and 2 farmers, and 1 solar industry representative would dominate the discussion and vote. We would favor the task subject to amendments.

For that reason the resolution should be amended as proposed in detail by Mr. Mariani. The Task force needs careful composition and a concise mandate.

Task force should:

1. Add 3 resident members from the affected areas.
2. Not consider any CSF without conditional use.
3. Include, as appropriate, the state's findings and recommendations in the final county report.

I thank you for you attention and patience in reading through this. tomorrow.

I will be happy to answer any questions by email or phone.

Sincerely,
Dan O'Leary
danielol12832h@gmail.com
301-854-9424



Greater Highland
Crossroads
Association

September 19, 2016
All Council Members,
Howard County Council
Howard County, Maryland

RE: CB 59-2016. ZRA-164

Dear Council Members,

Thank you for the opportunity to follow-up my oral testimony with this written version.

The GHCA board has voted to lend the strongest possible support to the comments and the position of CCWHC, as represented by Theodore Mariani, and others.

In taking this position, we are in danger of being labeled as ignorantly reactionary by virtue of being critical of the development of ALTERNATIVE ENERGY SOURCES -- a capital crime these days. We'll have to take the risk. We do applaud Dr. Ball's pursuit of alternatives, but at what cost? Let's sum up the costs:

Loss of the productive use of the farmland. In MD, agriculture is the 5th largest economic driver producing \$200M in sales from 335 farms. Maryland's top four crops are corn, soybeans, winter wheat and barley. These represent the vast majority of the production followed by fresh vegetables and orchards, **NONE** of these crops can be grown under or in solar installations. **Yes**, you might be able to raise goats, but in 2014 there were less than 15,000 goats in the whole state.

Loss of the rural agricultural character of the west. By abrogating the covenants and agreements between the farmers and the HC government, which really is an agreement between the citizens and taxpayers of the county and its farmers to maintain the rural agricultural character of the western part of the county, the Council will be acting in a legally questionable manner. These are valid, perpetual contracts. Are they so vulnerable to an ever-changing legislative body?

Loss of the already weakened trust of the citizenry. It violates the trust rightfully invested in the covenants by the citizenry in general and neighboring properties in particular. The skepticism of the citizenry with regard to the credibility and reliability of the zoning regulations, and the government in general will now be fully justified.

Loss to the taxpayer of stated purpose of the use of his hard-earned tax dollars. This loss could be significant. 300 million dollars has been devoted to the Agricultural Preservation Program. If you consider that there are close to 16,000 acres in the county program, the average cost is over \$18,000 per acre. This might be the biggest bait and switch, ever in HC.

Loss of the stated purposes of the preservation parcels in cluster development, open space for one. The GHCA has long advocated -- unfortunately, unsuccessfully -- for strengthening the cluster development provisions which have been a dismal failure in promoting attractive, quality development that would enhance and sustain the **RURAL** character of the two rural zones: RR and RC. This is because the regulations are merely advisory in nature. All a developer need do is to assert he attempted to comply with the recommendations and he is in compliance. The result: the cheapest product in terms of infrastructure, landscaping, and placement of preservation parcels. **To further weaken the regulations by allowing commercial solar on preservation parcels, meant to enhance, screen and beautify developments and protect their neighbors, is absolutely contrary to the General Plan, the stated purposes of the RR and RC Zones, and the cluster provisions. It is destructive of natural beauty, wasteful, economically counter-productive, and it endangers the public trust. Please reject it as such.**

The only legitimate use of solar on a farm is truly accessory, i.e., to generate a substantial majority or 66% of the power for the farm itself.

Please vote no on this well-meaning, but poorly-conceived proposal.



Dan O'Leary,
Chairman of the Board,
GHCA

September 20, 2016

PS: I was disappointed that only one person made the point that there are more than enough acres of commercial roofs and parking lots to generate enough electricity to power all of Howard County, and less expensively because of the easy access to infrastructure. Basic Planning 101 dictates such an approach. The problem with the 3 or 5 minute limit to testimony is that it's impossible to give a comprehensive response to a proposal. Unfortunately, a dissenter must concentrate on weaknesses, get attention, and then hope for further debate.

PPS: Dr. Ball's questioned: "Would you prefer housing development or solar farms?" This confused me because I believed he was speaking in a broad sense that did not apply. We were debating the legitimate use of parcels already preserved. I should have answered that I preferred farming on preserved parcels as defined by the Program and the covenants implementing it.

Ruth Alice White, HoCoClimateAction Advocacy Lead and Steering Committee member
8945 Footed Ridge Columbia Md

Comments from Howard County Climate Action opposing CB 55 and CR 133

Howard County Climate Action is a 12 year old local group working on climate education and advocacy.

We understand that Council member Yungman plans to introduce an amendment limiting CB55 to agriculture preservation easements only, not on all RR and RC zoned properties and this does not change our testimony.

I am aware that multiple groups are submitting written and oral testimony against these bills, and I will try not to repeat testimony I believe the council will get from others.

Howard County's 2030 General Plan and Climate Action Plans speak to the need for Howard County to develop clean and renewable energy sources in the county to meet greenhouse gas reduction goals.

<https://www.howardcountymd.gov/Departments/Planning-and-Zoning/Community-Planning/General-Plan>

<https://livegreenhoward.com/energy/climate-action-plan/>

https://livegreenhoward.com/wp-content/uploads/2018/05/Howard-County_ClimateActionPlan.pdf

Given the urgent climate crisis we cannot delay in developing clean energy resources we need. Our young people are telling us we need rapid action now.

The county just passed legislation, CB 59 in 2016, to allow solar on agricultural preservation lands under certain strict conditions. This is critical to the swift development of solar since solar on farm lands can be larger and produce much more electricity than much smaller installations on rooftops or parking lots. And the roll out of solar on homes is slow.

The Maryland legislature just passed the Clean Energy Jobs Act in 2019 to increase the amount of solar and wind energy in Maryland. We hope that the offshore wind projects being developed will be operational soon. But without a cable under the Chesapeake Bay to connect us, offshore wind is still likely years away. It is critical we develop more solar in Maryland and in Howard County to provide clean energy here.

Most of Howard County's farmland is covered under agriculture preservation rules. (almost 23,000 acres of HoCo's total 32,436 acres of farmland per a USDA Agriculture Survey, 2017). As a result, these bills would stop most of the potential projects in Howard County. Since

proximity to appropriate power hookups is required, only a very small part of Howard County farmland can meet the requirements for solar development.

To get county approval (by the ALPP), projects cannot use more than 33% of a landowners' property, so the majority of any farm that hosts solar will still be available for farming.

The community solar projects, which are not "commercial" projects under PSC definitions, are very small as required under the state community solar pilot project. The proposed community solar projects in Howard County are 1/5 of 1% of the farmland in Howard County. Suggestions that community solar is a threat to farmland or food supply is simply untrue.

We have heard that some farmers (and non-farmers) are concerned that Howard County farms should continue to contribute to Howard County food needs and that we need this food. We also believe local food is a high benefit. But a 2015 study showed that except for chicken, Maryland farms produce only a very tiny percentage of the food Marylanders eat. Although food from Howard County farms is a social good it is NOT nearly enough to feed us.

<https://mdfoodsystemmap.org/wp-content/uploads/2015/04/Maryland-Grown.pdf> In addition, studies have found that food-growing and solar are compatible uses. (See two articles

Crops under solar panels can be a win-win

<https://arstechnica.com/science/2019/09/crops-under-solar-panels-can-be-a-win-win/>

and

Energy and food together: Under solar panels, crops thrive

<https://www.pri.org/stories/2018-06-08/energy-and-food-together-under-solar-panels-crops-thrive>.

Again we note existing law and policies were debated in the previous county council. A deliberate and reasoned process resulted in regulations and policy procedures. We need to give this policy a chance and not precipitously enact a one-year delay that could severely harm the solar industry. This proposal takes a sledgehammer to the policy that supports solar. We are aware of four pending projects (both commercial and smaller community solar projects). Let's not halt on this program before it has a chance. Existing county policy includes detailed guidance and regulation of how much of a parcel can be in solar, the conditions, the amount of remaining land that must be high grade (USDA f-grades I-IV), etc. In other words, it has been methodically and systematically developed to balance agriculture and solar needs.

<https://www.howardcountymd.gov/LinkClick.aspx?fileticket=JNnvr90DsEo%3d&portalid=0×tamp=1492532215477>

For all these reasons and more, we urge disapproval of CB 55 and CR 133

Testimony of Theodore F. Mariani Re CR 133 -2019 October 21 2019

I am Theodore F. Mariani and I reside at 16449 Ed Warfield Road,
Woodbine Md 21797

In order to support the intent of CB 55 the Council should also enact CR 133. This resolution tracks with what the State has done in creating a Task Force to examine all aspects of the provision of renewable energy so that it can be done state wide in a responsible way.

The Howard County development regulations lack a full appreciation of the impact of large scale CSF projects on sensitive farm land and environmental resources. For example the regulations as written allow, thru a conditional use, up to a 75 acre CFS on sites in the Ag Pres program. While the regs call for a recommendation from the Ag Board the recommendation is not binding on the Hearing Authority (HC Bd of Appeals) which has ultimate decision power in Conditional Use cases.

The Ag Board has recently realized that its original criteria for recommending approval was at fault since it allowed approval of a project (Broadwater Lane)that permitted over 50 % of the site's best farmable land to be converted to a CSF. To correct this the Board revised their criteria to limit the CSF to 10% of the farm or 10 Acres for the entire solar facility, which ever is less. In the Broadwater Lane case this new criteria would have reduced the proposed CSF from 20 acres to 6 acres. The board's new criteria also states that the CSF should be sited to :

- 1) Support the "Primary" agricultural purpose of the property.
- 2) Minimize impact on existing environmental features (green infrastructure network, streams, wetlands, etc.)
- 3) "maintain the integrity and spirit of the Agricultural Land Preservation Program"
- 4) Demonstrate that the CSF is NOT sited on the most tillable land.
- 5) The applicant must also make a good faith effort at minimum disruption of the agricultural operation.

Since the Broadwater Lane case and 3 other similar projects have already been reviewed and approved by the Ag board , based on it's previous criteria, and are up for consideration by the Board of Appeals it is urgent

1. The first part of the text is a list of names and titles.

2. The second part of the text is a list of names and titles.

3. The third part of the text is a list of names and titles.

4. The fourth part of the text is a list of names and titles.

5. The fifth part of the text is a list of names and titles.

6. The sixth part of the text is a list of names and titles.

7. The seventh part of the text is a list of names and titles.

8. The eighth part of the text is a list of names and titles.

that the Council enact CB 55 and CR 133 to head off this ill conceived project and the 3 similar projects awaiting hearings. It is clear that all four of these projects violate the Ag Boards' new criteria and should be reconsidered.

It is important to recognize that the State is moving to create a rational approach to the development and siting of CSF projects. Also that the State has the ultimate decision making authority on Land use and that local jurisdictions should be consistent with State policy (Reference the Tier legislation where the State established a policy and the county was constrained to enact regulations that were consistent with that policy)

CR133 will provide a mechanism for the County to develop a policy on the development and siting of renewable energy systems that is consistent with the State's efforts and guidance to ensure the protection of our cherished natural resources.

In order to have a full degree of support county wide we recommend a modification in the composition of the Task Force proposed in CR 133. While the proposed composition of the Task Force has strong representation from the Solar Energy sector, it lacks any input from the residential communities that will be abutting these installations. It is vital that the Criteria and Guidelines established by the County be cognizant of the impacts of CSF's on neighboring properties. Having a balanced input from all affected parties early in the process is essential in achieving a result that will gain acceptance county wide.

Our support for CR 133 includes the inclusion of the following modifications to the Resolution:

- 1) Eliminate or clarify the intent of #5 Page 2 Line 24 which refers to the possible approval of solar facilities without a Conditional Use. If the intent is to allow solar facilities that are sized to support of the the actual power needs of the farm itself (following the MALPF model of 125% of demonstrated farm use) this would be appropriate . Allowing CSF on Ag Pres land without a Conditional Use approval should never be considered.
- 2) Page 2 Line 1 Add words "preliminary findings" The Task Force should incorporate in its final report a full consideration of the State Task Force study that might not be finalized by July 2020.

1. The first part of the assignment is to write a program that computes the sum of the squares of the first n natural numbers. The formula for this is $n(n+1)(2n+1)/6$.

2. The second part of the assignment is to write a program that computes the sum of the cubes of the first n natural numbers. The formula for this is $(n(n+1)/2)^2$.

3. The third part of the assignment is to write a program that computes the sum of the reciprocals of the first n natural numbers. This is a harmonic series.

4. The fourth part of the assignment is to write a program that computes the sum of the squares of the even natural numbers up to n. This is a variation of the first problem.

5. The fifth part of the assignment is to write a program that computes the sum of the squares of the odd natural numbers up to n.

6. The sixth part of the assignment is to write a program that computes the sum of the squares of the prime numbers up to n. This is a more complex problem.

7. The seventh part of the assignment is to write a program that computes the sum of the squares of the composite numbers up to n.

3) Page 1 Line 25 thru Page 2 Line 8. Revise composition of the Task Force to include representation from the residential community county wide. I Suggest adding the following –5. Three members appointed by the following citizen associations, Howard County Citizens Association, Greater Highland Citizens Association, and Concerned Citizens of Western Howard County.

I We appreciate the opportunity to present our views and trust you will act decisively and quickly to address this matter.

Theodore F. Mariani FAIA PE MCRP
President Concerned Citizens of Western Howard County

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HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: 21 October 2019

Subject: HCCA Testimony on CR133-2019 Establishing Task Force for Solar

Dear Council Members,

My name is Stu Kohn. I am the President of the Howard County Citizens Association, HCCA and I am testifying on their behalf. Our position on this proposed Resolution is "undecided." We congratulate Council Member Yungman for perhaps trying to make a wrong a right. Commercial Solar Facilities should not be allowed on designated Agricultural Preservation land – period. The question is a Task Force necessary. We are not sure. We say this because as you know there is a State Task Force established by the Governor. Why not allow them to do their work and see the results of their study. If it is decided that a Howard County Task Force to study commercial solar facilities on agricultural land preservation parcels is essential then we have the following recommendation and question.

Please refer to Page 1, Line 25 -26 that the Task Force consists of the following members: We would like to gain better transparency by you considering three additional qualified representatives from the community, one each from the west, central, and east. By qualified we mean they are very familiar with the Ag Preservation program and either reside on or are immediately impacted by any proposed Commercial Solar Facilities on Ag Preserve land.

Please refer to Page 2, Lines 24 and 25 where it reads, "circumstances or exceptions when solar facilities may be installed on agricultural preservation easements without a conditional use application." What does this mean regarding that the Task Force shall investigate and make recommendations? Why should there be any exceptions by not going through the Conditional use process? Especially since in the Zoning Regulations under Section 106.1 - County Preservation Easements -- Conditional Uses it states, "Conditional Uses shall not be allowed on agricultural preservation easements unless they support the primary agricultural purpose of the easement property, or are an ancillary business which supports the economic viability of the farm, and are approved by the hearing authority in accordance with the applicable provisions of Sections 130.0 and 131.0 of these regulations."

Regardless of the decision on this Resolution we want to emphasize that Council Member Yungmann is doing the right thing.

Thank You

Stu Kohn

HCCA President

October 21, 2019 CB133-2019

Howard County Council,

I think maybe this should be done after the few solar arrays that are out there in the works get done. When I was on the Ag Pres board in 2016, we (the board) tried to set parameters and thought we did a pretty good job with what little information we had at the time. The need for saving ag land and the need to be profitable for everyone is a must and the only way I see is to make changes as you go, just like what you have done with development. If no one had the right to build a house, you wouldn't know what will work and what doesn't work. I also think you need a person from SDAT to be a member or at the very least, be a part of the process. No one seems to know what they will tax you at, and the county should also require a bond from the solar companies to protect both the land owner and the county, you hold the easement, you stand to lose as well if a solar company fails. If we stop farming our property the ag assessment goes away, maybe that is a compromise to call solar commercial and tax it accordingly, I think the stakes need to be equal.

Thank You !!! Howie Feaga

**TESTIMONY OF THERESE M. MYERS RE CB 55-2019 AND CR 133-2019
HOWARD COUNTY COUNCIL, OCTOBER 21, 2019**

GOOD EVENING. MY NAME IS THERESE MYERS AND I LIVE AT 5421 BROADWATER LANE IN CLARKSVILLE, MARYLAND. MY PROPERTY OVERLOOKS 5545 BROADWATER LANE, AN AGRICULTURAL PRESERVATION PARCEL AND ONE OF THE PROJECTS CURRENTLY AWAITING A CONDITIONAL USE HEARING FOR COMMERCIAL SOLAR.

IF THIS PROJECT IS APPROVED, I WILL HAVE COMMERCIAL SOLAR WRAPPED AROUND THE FRONT AND SIDE OF MY HOUSE.¹ THIS PROJECT CERTAINLY GOT MY ATTENTION AND IS THE REASON I BECAME INVOLVED WITH THIS ISSUE. BUT THIS ISSUE IS SO MUCH BROADER THAN MY SITUATION.

THIS PAST JULY, WITH THE SUPPORT OF MANY HOWARD COUNTY CITIZENS, I URGED COUNCILMAN YUNGMANN TO SPONSOR A BILL THAT WOULD PLACE A MORATORIUM ON THE SITING OF COMMERCIAL SOLAR ON AGRICULTURAL PRESERVATION LAND SO THAT THE ISSUE OF RESPONSIBLE SITING OF SUCH PROJECTS COULD PLAY OUT AT THE STATE LEVEL.

I AM DELIGHTED THAT HE HEARD US AND RESPONDED WITH THIS WELL-THOUGHT OUT BILL 55 AND COMPANION RESOLUTION 133, BOTH OF WHICH DESERVE THE COUNCIL'S FULL SUPPORT.

¹ Please see Attachment showing my house highlighted in yellow.

ON AUGUST 14, 2019 GOVERNOR HOGAN ISSUED AN EXECUTIVE ORDER CREATING A TASK FORCE TO STUDY RESPONSIBLE SITING OF RENEWABLE ENERGY DEVELOPMENT IN OUR STATE.² INDEED, THIS EXECUTIVE ORDER ESSENTIALLY AFFIRMED AND BROADENED THE SCOPE OF SENATE BILL 744 THAT HAD PASSED UNANIMOUSLY (47-0) IN THE MARYLAND SENATE, A BILL THAT SOUGHT TO BALANCE AGGRESSIVE DEVELOPMENT OF SOLAR ENERGY PROJECTS WITH STRATEGIC SITING TO PROTECT OUR STATE'S NATURAL RESOURCES AND AGRICULTURAL HERITAGE.³

IN HIS EXECUTIVE ORDER, GOVERNOR HOGAN DECLARED, "UNWISE SITING OF RENEWABLE ENERGY PROJECTS COULD JEOPARDIZE MARYLAND'S FARMS, FORESTS, WATERWAYS AND WETLANDS."⁴ THE GOVERNOR'S TASK FORCE WILL MAKE RECOMMENDATIONS FOR AVOIDING LOCATIONS THAT ADVERSELY IMPACT AGRICULTURAL PRESERVATION AREAS.⁵ IT IS PRUDENT TO WAIT AND RECEIVE THE STATE'S RECOMMENDATIONS BEFORE MOVING FORWARD WITH PETITIONS TO SITE COMMERCIAL SOLAR ON HOWARD COUNTY'S AGRICULTURAL PRESERVATION PARCELS.

COUNTY BILL 55 IS NOT ANTI-SOLAR. IT IS PRO-SOLAR, BUT IT IS PRO-SOLAR IN A RESPONSIBLE MANNER. IT MERELY CALLS FOR A REASONABLE PAUSE WHILE THE

2 Executive Order 01.01.2019.09 (Aug. 14, 2019)

3 See Maryland Senate Bill 744, Protecting Natural Resources and Preserving Productive Farms – Commission on the Development of a Blueprint for Solar Energy in Maryland. This Bill passed unanimously (47-0) in the Senate on March 11, 2019 and was deemed an EMERGENCY MEASURE because our State's natural resources and productive farmland are increasingly under threat.

4 Executive Order 01.01.2019.09 at 1.

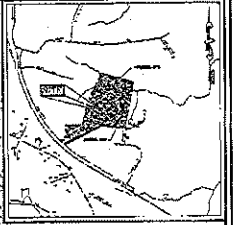
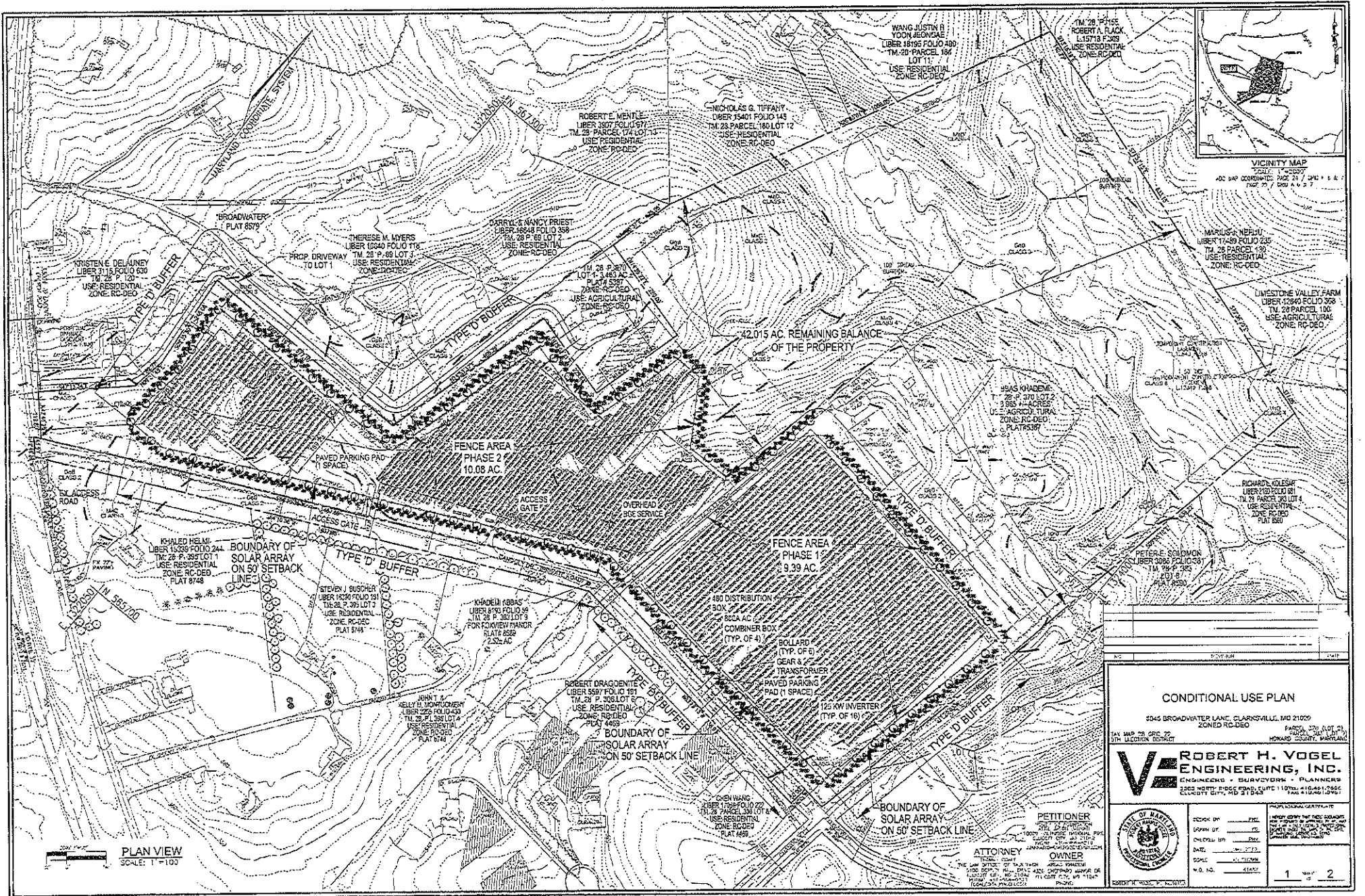
5 Id. at 3.

STATE COMPLETES IT STUDY TO DETERMINE HOW TO SITE THESE PROJECTS IN A RESPONSIBLE MANNER.⁶

YOUR VOTE IN FAVOR OF BILL 55 AND RESOLUTION 133 WILL SHOW THAT YOU RECOGNIZE THE IMPORTANCE OF BALANCING THE EXPANSION OF RENEWABLE ENERGY WITH RESPONSIBLE SITING TO PROTECT OUR COUNTY'S NATURAL RESOURCES AND PRECIOUS FARMLANDS.

I URGE YOU TO VOTE IN FAVOR OF COUNTY BILL 55 AND COUNTY RESOLUTION 133.

⁶ See id. at 5 (requiring Task Force to submit to Governor final report detailing its recommendations on responsible renewable energy development and siting within one year of date of Order).



VICINITY MAP
 DATE: 1-2020
 A/C MAP CORRECTIVE PAGE 21 / 210 x 8 1/2
 PAGE 21 / 800 x 6 1/2

MARILISA NEESH
 LIBER 11-89 FOLIO 230
 TM 28 PARCEL 130
 USE: RESIDENTIAL
 ZONE: RC-DEO

LIMESTONE VALLEY FARM
 LIBER 12840 FOLIO 368
 TM 28 PARCEL 100
 USE: AGRICULTURAL
 ZONE: RC-DEO

RICHARD COLEMAN
 LIBER 13070 FOLIO 81
 TM 28 PARCEL 303 LOT 4
 USE: RESIDENTIAL
 ZONE: RC-DEO
 PLAT 80

PETERE SOLDMAN
 LIBER 3086 FOLIO 28
 TM 28 P 363
 PLAT 9230

CONDITIONAL USE PLAN

3245 BROADWATER LANE, CLARKSVILLE, MD 21029
 ZONED RC-DEO

TAX MAP 78 ORF 27
 104 GREEN DRIVE
 HOWARD COUNTY, MARYLAND

ROBERT H. VOGEL ENGINEERING, INC.
 ENGINEERS • SURVEYORS • PLANNERS
 2323 NORTH FORD ROAD, SUITE 1107A, CLARKSVILLE, MD 21031
 (410) 461-2466 FAX (410) 461-1871



DESIGN BY	_____/____/____	DATE	_____/____/____
CHECKED BY	_____/____/____	SCALE	AS SHOWN
DATE	_____/____/____	PROJECT NO.	_____/____/____
SCALE	AS SHOWN	PROJECT NO.	_____/____/____
DATE	_____/____/____	PROJECT NO.	_____/____/____

PLAN VIEW
 SCALE: 1"=100'

PETITIONER
 OWNER
 ATTORNEY

**HOWARD COUNTY GOVERNMENT
CB55-2019 AND CR133-2019**

**Commercial Solar Facility Conditional Use Temporary Prohibitions and Task Force to
Study Commercial Solar Facilities on Agricultural Land Preservation Parcels
Legislative Public Hearing**

October 21, 2019 7 PM Banneker Room George Howard Building

By

**Mindy Burstein and Peter Solomon
5601 Foxview Court, Clarksville MD 21029**

We are testifying to strongly support the temporary prohibition on development of Commercial Solar Facilities and the creation of a task force to study the issues surrounding the use of agricultural land for Commercial Solar Facilities.

We've lived here for 25 years. We bought the land in part because we were informed the farm next door was preserved agricultural land. We felt this would assure the character of our neighborhood in perpetuity.

We are pro solar. We believe that renewable energy is an essential part of any strategy to combat climate change. Nevertheless, this is a residential neighborhood. The agricultural preserved parcel is surrounded by homes. Developing a CSF on such a parcel would adversely change the character of the neighborhood. We do not believe that this was the intent of conditional use regulations.

Instead, the intent of these regulations was to help struggling Howard County farmers keep their farms economically viable. This is not the case with the Broadwater farm. In fact, the owner is neither a Howard County resident nor involved in the farm's agricultural activity. He is simply an investor. The county's conditional use regulations should seek to exclude non-resident investors so that actual farmers receive the benefits.

Although studies show that CSF's may be less expensive per Kilowatt than rooftop solar, this analysis does not capture the fact that rooftop solar does not require any additional land or transmission lines. Rooftop solar creates a truly distributed system and leaves neighborhood character intact. Has the county explored strategies to encourage or subsidize rooftop installations rather than large scale commercial solar facilities? The proposed task force would allow the county to evaluate this approach.

When a commercial solar facility is installed within or adjacent to a residential community, environmental issues must be fully vetted. For example, are current regulations sufficient to protect neighborhoods from additional rainwater runoff causing erosion and runoff into ponds and streams? Do they protect wildlife and their habitats impacted by these facilities? Do current setbacks and screening requirements protect neighbors from the adverse effects on the quiet enjoyment of their neighborhoods? Also, this year there were 3 tornadoes in one month, one within 2 miles of the proposed Broadwater CSF. Do installation and safety requirements adequately protect neighborhoods from disaster? The Broadwater farm is 100 feet away from a neighboring pond that feeds the nearby streams. Who will be responsible if the toxic materials in the solar panels that include lead and cadmium were to enter the pond, streams and ground water?

It is imperative that the county place a temporary prohibition on conditional use petitions until a task force can study these issues and recommend a comprehensive strategic approach to implementing solar energy in Howard County that benefits all constituents.

Ann H. Jones
2921 Greenway Drive
Ellicott City, MD 21042
410-461-6869
annholmesjones@gmail.com

October 21, 2019

Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: Council Bill 55-2019; Council Resolution 133-2019
Position – Undeclared

Land is a very limited resource, particularly land with good soil, adequate rainfall and excellent local markets. We are a small county with tremendous development pressure. It was in recognition of this pressure that Howard County established a well-funded and successful agricultural easement purchase program. Had this program not existed, it is unlikely that there would still be significant farmland in Howard County.

CB 55 does not declare war on solar. Rather, it advocates stepping back a bit and making sure we get it right. I am aware that many people go by a farm field and feel like its vacant land – just sitting there for the taking. But that land helps to provide clean water, clean air, allows us to connect with the outdoors, oh and by the way – produces food too.

There are families here who have played by the rules to date and are in the pipeline for the approval of their solar projects. I believe that they should be allowed to continue through the process and develop their project.

We know more about the impact of these facilities will have than we did several years ago. We can evaluate the impact they will have on the ability of a farmer to continue farming. The collectors will be there for a minimum of 25 years and could be there for 40 years or more. We need to get it right.

Howard County is the only county in Maryland allowing ^{commercial} solar on permanently protected agricultural land. Land protected under the Maryland Agricultural Land Preservation Foundation does not allow commercial solar facilities. Land protected with the Maryland Environmental Trust does not allow commercial solar facilities. There are many reasons why this is the case, ranging from IRS requirements for donated easement or the bargain sale of conservation easements to the legislative purpose of the individual programs.

We need to encourage solar development that is ancillary to and compatible with the main farming operation. I am confident that this can and should be done. It may not take a year – but we do need to step back and carefully consider the best way to create a sustainable solar future and protect our best agriculture land.