



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA-164 Date Filed: 12-8-15

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To amend Section s 106.1 County Preservation Easements and 131.0: Conditional Uses section to eliminate an unintended conflict that would prohibit the Commercial Solar Facilities on preservation parcels as a Conditional Use.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Dr. Calvin Ball, Councilperson

Address 3430 Courthouse Drive, Ellicott City, MD 21043

Phone No. (W) 410-313-2001 (H)

Email Address @howardcountymd.gov

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3. Counsel for Petitioner Paul Johnson, Esq.

Counsel's Address 3450 Courthouse Drive, Ellicott City, MD 21043

Counsel's Phone No. 410-313-2101

Email Address PJohnson@howardcountymd.gov

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed The proposed changes to the Zoning Regulations will eliminate the unintended conflict that would prohibit the Commercial Solar Facilities on preservation parcels as a Conditional Use. During the comprehensive zoning effort of 2013 there was a new section added to the Zoning Regulations (106.1) for County Preservation Easements which permitted Commercial Solar Facilities as a conditional use on preservation easements. Unfortunately, the Conditional Use language that prohibited Commercial Solar Facilities on preservation parcels was not deleted. In addition, given the nature of Commercial Solar Facilities, the limits of 106.1D.1.a and 106.1D.2.a are not feasible. Therefore, this conditional use should be listed more appropriately under 106.1D.1.b and 106.1D.2.b.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County POLICY 4.12 – “Develop an energy plan that prepares for different future energy scenarios, examines options for various kinds of future energy sustainability, promotes conservation and renewable resources, and sets targets to reduce greenhouse gases.” This policy has an Implementing Action D which calls to “Implement the County’s 2010 Climate Action Plan (referenced in Chapters 1, 3, and 12), which relates to future energy technology, such as wind, solar, geothermal, and other renewable sources.”

[You may attach a separate document to respond to Section 5. If so, this document shall be titled “Response to Section 5”]

6. The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A. The General Plan also states in Policy 4.12, Implementing Action G that [the County should] “Explore evolving energy markets, plus options for enabling “smart grid” technologies, which reveal new opportunities to create, store, consume, and invest in energy commodities and related assets.”

[You may attach a separate document to respond to Section 6. If so, this document shall be titled “Response to Section 6.”]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . See number 6 above.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled “Response to Section 7.”]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? _____ Yes. _____

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The minimum required lot size for a Commercial Solar Facility is 10 acres. If there are parcels that fit that size criteria and meet the other Conditional Use requirements (setback, uses, etc.) then they would be eligible for the use. According to the County GIS staff there are approximately 270 parcels that are at least 10+ acres and in the preservation program.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. _____

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[Double Bold Brackets]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

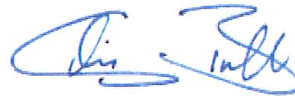
After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.

12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Calvin Ball

Petitioner's name (Printed or typed)



Petitioner's Signature

12/8/15

Date

Petitioner's name (Printed or typed)

Petitioner's Signature

Date

Petitioner's name (Printed or typed)

Petitioner's Signature

Date

Paul John 12/8/15

Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

* **The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.**

APPLICATIONS: One (1) original plus twenty (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Attachment A

SECTION 106.1: - County Preservation Easements

D. Conditional Uses

1. ALPP Purchased Easements and ALPP Dedicated Easements

- a. 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. On an ALPP purchased or dedicated easement property, the area devoted to Conditional Uses may not exceed a cumulative use cap equal to 2% of the easement or up to a maximum of 1 acre for preservation parcels created as part of the Cluster Subdivision process.

The following Conditional Uses may be allowed:

- (1) Animal hospitals
- (2) Barber shop, hair salon and similar personal services facilities
- (3) Bottling of spring or well water
- (4) Communication Towers
- (5) Farm tenant house on a parcel of at least 25 acres but less than 50 acres
- (6) Historic building uses
- (7) Home based contractors
- (8) Home occupations
- (9) Kennels and/or pet grooming establishments
- (10) Landscape contractors
- (11) Limited outdoor social assemblies
- (12) Sawmills or bulk firewood processing
- (13) School buses, commercial service
- (14) Small wind energy systems, freestanding tower
- [(15) Solar facilities, commercial]]

b. In addition, the following Conditional Uses which may require additional land area may be permitted on agricultural preservation easements:

- (1) Agribusiness, limited to uses itemized in Section 131.0.N.
- (2) Farm winery—class 2
- (3) SOLAR FACILITIES, COMMERCIAL

2. Other Dedicated Easements

a. Conditional Uses shall not be allowed on other dedicated easements unless they support the primary purpose of the easement property and are approved by the Hearing Authority in accordance with the applicable provisions of Sections 130.0 and 131.0 of these Regulations. On these dedicated easements, the following Conditional Uses which do not require the construction of new principal structures or use of an outdoor area that is more than 2% of the preservation parcel acreage up to a maximum of 1 acre may be allowed:

- (1) Animal hospitals
- (2) Antique shops, art galleries and craft shops
- (3) Barber shop, hair salon and similar personal service facilities
- (4) Bottling of spring or well water
- (5) Child day care centers and nursery schools, day treatment and care facilities
- (6) Communication towers
- (7) Country inns
- (8) Historic building uses
- (9) Farm tenant house on a parcel of at least 25 acres but less than 50 acres
- (10) Home based contractors
- (11) Home occupations
- (12) Kennels and/or pet grooming establishments
- (13) Landscape contractors
- (14) Limited outdoor social assemblies
- (15) Museums and libraries
- (16) Retreats

- (17) School buses, commercial service
- (18) Shooting ranges—outdoor rifle, pistol, skeet and trap
- (19) Small wind energy systems, freestanding tower

[[20) Solar Facilities, commercial]]

[[21]]20) Two family dwellings, accessory apartments and multi-plex dwellings

b. In addition, the following Conditional Uses which may require additional land area may be permitted on other dedicated easements:

- (1) Agribusiness, limited to uses itemized in Section 131.0.N.2
- (2) Charitable or philanthropic institutions dedicated to environmental conservation
- (3) Farm Winery—Class 2
- (4) Golf Courses
- (5) SOLAR FACILITIES, COMMERCIAL

SECTION 131.0: - Conditional Uses

N. Conditional Uses and Permissible Zoning Districts

52. Solar Facility, Commercial

A Conditional Use may be granted in the RC or RR District for a commercial solar facility, provided that:

[[a. The land on which the commercial solar facility is proposed may not be in the Agricultural Land Preservation Program and it may not be encumbered by any environmental preservation easements.]]

[[b]]A. The maximum size of a solar facility shall be 75 acres notwithstanding the size of the parcel. The parcel on which the commercial solar facility is proposed must be a minimum of 10 acres in size.

[[c]]B. All structures and uses must meet a minimum 50 foot setback from all property lines.

[[d]]C. No structure or use may be more than 20 feet in height.

[[e]]D. A 'Type D' landscaping buffer must be provided around the perimeter of the proposed commercial solar facility unless the Hearing Authority determines that an alternative buffer is sufficient.

[[f]]E. All security fencing must be located between the landscaping buffer and the commercial solar facility.

[[g]]F. The systems shall comply with all applicable local, state, and federal laws and provisions.

[[h]]G. A commercial solar facility that is no longer used shall be removed from the site within one year of the date that the use ceases.

[[i]]H. The premises shall be maintained at all times in a clean and orderly condition, including the care or replacement of plant materials required in the landscaping plan. The responsibility for compliance with this provision shall be with all parties having a lease or ownership interest in the commercial solar facility. The applicant shall provide the Hearing Authority with details regarding maintenance and access for the site.

[[j]]I. A solar collector or combination of solar collectors shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.

[[k]]J. The applicant shall agree to register all solar collectors with the Department of Fire and Rescue Services. The registration shall include a map of the solar facility noting the location of the solar collectors and the panel disconnect.

[[l]]K. Tree removal shall be minimized and reforestation shall be done in accordance with Section 16.1026 of the Howard County Code.

[[m]]L. The applicant shall demonstrate that the solar facility does not harm the scenic characteristics of the view of or from:

- (1) A public park;
- (2) A national or state designated scenic byway;
- (3) A road listed in the Scenic Roads Inventory adopted under Section 16.1403 of the Howard County Code; or
- (4) A historic structure as defined in Section 16.601 of the Howard County Code.

M. THE HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD SHALL REVIEW ANY CONDITIONAL USE PETITION WHICH PROPOSES TO A COMMERCIAL SOLAR FACILITY ON PARCELS WHICH ARE IN THE AGRICULTURAL LAND PRESERVATION PROGRAM PRIOR TO APPROVAL BY THE HEARING AUTHORITY.