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September 15, 2016

Dr. Calvin Ball, Chairman  
Howard County Council  
Howard County Government  
3430 Court House Drive  
Ellicott City, MD 21043

RE: ZRA 164- Amendments to Sections- 131.0  
and 106.1 Solar Facilities on Agricultural  
Land Preservation Parcels

Dear Chairman Ball:

On behalf of my client, Concerned Citizens of Western Howard County (CCWHC), I would like to address concerns and opposition to the proposed text amendments set forth in ZRA 164 as it relates to allowing Commercial Solar Facilities on Agricultural Land Preservation Parcels (ALPP) and other dedicated easements, and the elimination of the existing land use area restrictions.

Existing Regulations

Under the existing regulations, Section 131.0.N. 52.a, Commercial Social Facilities are prohibited on land that is in the Agricultural Land Preservation Program or encumbered by environmental preservation easements. This commercial prohibition is echoed in every Deed of Easement executed by and between the Howard County Government and each of the 270 landowners in the Agricultural Land Preservation Program.

Although the Technical Staff Report dated April 14, 2016 characterized this prohibition as an oversight, there is strong evidence to the contrary. While the inclusion of the language set forth in Section 106.1 indicates an intention to allow for these types of Commercial Solar Facilities on ALPP and other Dedicated Easements, it clearly imposed the following maximum area land use are restrictions:

- For ALPP purchased and dedicated easements, the use are cannot exceed 2% of the easement,
- For preservation parcels created as part of a cluster subdivision, the use area cannot exceed 1 acre, and

- For other dedicated easements, the use area cannot exceed 2% of the easement up to 1 acre.

Arguably, a more reasonable interpretation of the prohibiting language in Section 131.0.N.52 would be that it omitted the phrase: “Subject to the provisions set forth under Section 106.1,” which sets forth the criteria for solar facilities. Clearly there was intent during the Comprehensive Zoning process to provide for limit Solar Facilities on ALPP and other Dedicated Easements subject to “reasonable” area use restrictions which would not conflict with the agricultural use of the property. Section 106.1.D.1 provides that “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.” (Emphasis added.)

### Proposed Amendments

Under the Petitioner’s Proposed Text to Section 106.1, Commercial Solar Facilities would be deleted from the first category of Conditional Uses and included in the second category (which is not subject to a maximum land area requirement). To do so would be inconsistent with not only the County’s PlanHoward 2030 General Plan but also with the 2014 COMAR Regulations regarding Authorized Renewable Energy Source (ARES) applicable to Maryland State encumbered easements under the Maryland Agricultural Land Preservation Foundation (MALPF). Under the proposed amendments to Section 131.0.N.52, Commercial Solar Facilities on ALPP could cover as much as 75 acres of preserved farm land.

### PlanHoward 2030

PlanHoward 2030 encourages “stewardship of the land under easement” and puts forth suggestions to reduce “farmland use conflicts”. Furthermore, Policy 4.4.a requires a “robust” buffer between cluster lots and adjoining agricultural properties. If Commercial Solar Facilities are allowed on ALPP easements and other dedicated easements under Section 131.0.N.52, the required setback would only be 50 feet. That is hardly a “robust” buffer, especially on dedicated easements in cluster subdivisions. PlanHoward 2030 states: “It is particularly important that agricultural easement properties are adequately buffered when the adjoining land use changes, since a preserved farm will always remain an agricultural use.”

Under the proposed text amendments if Section 131.0 is made applicable to Purchased ALPP or Dedicated Easements, then the maximum size of a solar facility could potentially be as large as 75 acres, with a 50 foot setback from adjoining property owners. Having a commercial facility in such close proximity to residential development will undoubtedly lead to conflicts with neighboring property owners.

### State COMAR Regulations

In 2014, the Maryland General Assembly amended Section 2-513 (c) of the Agricultural Article of the Annotated Code of Maryland, to allow for Authorized Renewable Energy Sources

(ARES) on properties subject to MALPF easements. Under the State Regulations, the facility cannot occupy more than 5% of the property under easement, or 5 acres, whichever is less. Additionally, the Foundation must determine that “the facility utilizing an Authorizing Renewable Source will not interfere significantly with the agricultural use of the land subject to the easement.” The provisions under Maryland Law go even further, under Section 2-513 (c) 6, by requiring any Facility Owner that uses the land, subject to an easement, to remit an annual payment of 5% of any lease payment paid to the landowner to Maryland Agricultural Land Preservation Fund.

Fiscal Impact

Under the proposed text amendments for ZRA 164, there are no provisions for any repayment to Howard County for the removal of the agricultural property from the Howard County Preservation Program, which is being converted to commercial use. This is in direct conflict with the current policy which requires a repayment to the County for any property that is no longer being used for agricultural purposes. This represents a financial loss to the tax payers of Howard County and the Agricultural Preservation Program. Additionally to the extent that federal funds were used to purchase easement property, repayment may be required.

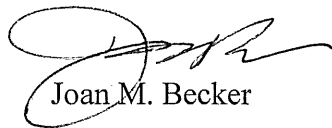
Conflict with the Agricultural Preservation Program

As you know, the County has spent over 300 millions of dollars of tax-payer money to place 15,300 acres into the Agricultural Preservation Program. When the Agricultural Preservation Program was adopted in Howard County in 1978, its clear purpose was to preserve agricultural land in perpetuity and to restrict the development of that land for any industrial or commercial use that was not directly related to farming or agricultural purposes. To allow a landowner to use their land in a commercial use would be to jettison the original intent to place the property in preservation.

For the reasons outlined above, Zoning Regulation Amendment 164 should not be approved as proposed.

Very truly yours,

JOAN M. BECKER, LLC



Joan M. Becker

cc:  
Councilman Greg Fox  
Councilwoman Mary Kay Sigaty  
Councilwoman Jennifer Terrasa  
Councilman Jon Weinstein  
Ted Mariani, CCWHC



# HCCA

**Howard County Citizens Association**

*Since 1961...*

*The Voice Of The People of Howard County*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **CONCLUSIONS: Just say NO**

1.) Commercial solar facilities should not be permitted on agricultural preservation parcels or easements. To do so would break the public trust.

2.) Commercial solar facilities are not agriculture and therefore any land populated with such solar facilities should lose the reduced agricultural property tax assessment.

3.) Tillable ground should not be covered with solar panels whether within Ag Pres or not. It is not much different than constructing homes on farms where both instances negate agricultural purpose and result in covered ground regardless.

4.) If we are to accept the argument that intercropping underneath the solar panels and/ or the grazing of certain livestock among the solar panels is a viable and compatible use, why not require such truly agricultural endeavors as part of a condition of having solar panels?

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

Testimony For Legislative Session 2016

Introduced by Councilman Calvin Ball

RE: BILL NO. 59-2016 (ZRA--164)

September 19, 2016

This testimony is against (con) the removal of certain restrictions that limit the size of Commercial Solar Facilities on County Preservation Parcels and allow Commercial Solar Facilities as a Conditional Use on RR & RC zoned properties under certain conditions.

1. By this proposal of land change allowing industrialization of the land with increased rows of solar panels on ALPP purchased easements and ALPP dedicated easement land this proposal is way too soon to be approved without a longer history of solar panels cell efficiency conversions. At the present time the efficiency of solar panel cell conversion is about 20% and some companies are not that high.

2. Electrical energy is not an agricultural product. It is an industrial product. In the stock market it is understood that there are two types of commodities: Agricultural commodities and industrial commodities. Clearly stated solar energy is not considered an agricultural commodity, it is an industrial commodity.

3. ALPP (Agricultural Land Preservation Program) money was collected from taxpayers and spent to preserve this farm land for agricultural purposes in perpetuity. This was to preserve farmland for farming and not to be overtaken by development and industrialization by changing definitions under farming and ZRA's of this sort.

2. If ALPP land could be opened up and broken down into commercial and industrial uses, what other commercial and industrial enterprises could use this same model for further expansion onto farmland. Example mulching and composting on a larger commercial/industrial scale in western Howard County.

2. Widespread disappearance of the farmland and its rich soil for growing crops and pasture will be altered and decimated without proper yearly cultivation. Can this land be rehabilitated back into farmland if this solar industry collapses, or becomes impractical, out dated, or bankrupted?

3. Who has the right to change rural conservation land areas and rural residential properties into commercial/ industrial designations without proper transparency and openly informing the citizens who live on rural conservation and rural residential areas of western Howard County?

4. Where are the planned and informational Community Meetings to impartially educate the citizens in RC & RR areas with the pros and cons of industrial solar panels being proposed near or on the preservation parcels next to their homes?

5. There have been no Pre submission meetings to inform the citizens of the proposed request of changes to their area where industrial solar panels could be expanded. Who is responsible for getting pre submission meetings together and why has this large change not been addressed under pre submission meetings before this proposal was submitted?

6. The suggestion that farm animals can also utilized the land that solar panels are on at the same time, is completely unrealistic and uneducated guessing. Most panels would have to be severely raised to allow animals to go underneath them and for what? Grazing on dirt? Tending to the farmland herds and flocks, and transporting these animals in a plot filled with solar panels can not be successfully without damage to panels and the animals. So forget those solar panel ads that show solar panels in rows and sheep also in the same area with electrical energy being produced by rows of solar panels.

4. Growing crops on the industrial solar panel land is also unrealistic as those crops require planting , fertilizing, watering , weeding, cultivating and then harvesting without damaging the solar panels.

5. Removal of a commercial solar facility or its panels that is no longer used (life span of panels) requires some place to dump a large number of panels. Have there been any studies on where to dump these old panels in a safe, healthy manner without contaminating the environment?



6. Why is a Task Force not being made to further evaluate and study deeply the implications of industrial solar panels being introduced into the rural western part of Howard County before they are approved and clearing farmland for industrialization enterprises?

7. Large numbers of industrial solar panels require periodic removal of dust and debris on them through washing and perhaps some chemical cleaners. Where does this run off water or any other chemical treatment go? Is it safe for streams and eventually the BAY?

Why are there no provisions for any repayment to Howard County and the taxpayers if the Howard County Agricultural Land Preservation Program converts farmland preservation (ALPP) into a commercial and industrial use such as solar panels.

#### SUMMARY AND SUGGESTIONS

1. Have Community Meetings to inform the citizens with the pros and cons of solar panels displacing farmland into partial industrialization areas. Get a general consensus on this issue with the citizens of western Howard county.

2 Form a Task Force to investigate into the legal, economical, long term environmental safety, farmland utilization transition impacts, residential property value impacts, and Chesapeake Bay impacts that industrial solar panels will change.

3. Create a form of repayment plan and impose it on the solar panel industry and land owners for removal of agricultural property from the Howard County Preservation Program into industrialize use.

4. Revisit and redefine and perhaps remove parts of Section 106.1 under Howard County Zoning Regulations. Part D Conditional Uses with ALPP Purchased Easements and ALPP Dedicated Easements. Remove Solar Facilities, commercial (b.(3) and under 2. Dedicated Easements remove conditional uses (21) Solar Facilities, commercial and b. (5) Solar Facilities, Commercial. Under Section 131.0 Conditional Uses and Permissible Zoning Districts N. and revisit the new proposed legislation numbers a-m.

5. Consider and revisit placing solar panels on commercial buildings roof tops and grounds that belong to Howard County in urban areas. Example: The big old Bendix building now called Dorsey Building on Bendix Drive in Columbia that houses the Department of Public Works.

6. To commercial developers impose some of the costs and require placement of solar panels on any new large commercial buildings in urban areas of Howard County starting now.

7. To all County Council Members and Legislators. Please consider being Strict Caretakers of rural lands and farmland in the western part of Howard County.

Development doesn't always equate with success and better living conditions.

Citizens that live in western Howard County chose a rural lifestyle that is as important to them as those that live in urban and suburban areas surrounding Columbia.

If one does not live on farmland or in the rural land of western Howard County at least be respectful and understanding of those citizens and their homesteads that do live there and want to keep it that way.

This proposal will open the door to increase industrialization and commercialization of irreplaceable rural land and farmland particularly in western Howard County.

Change back the definition of farming in zoning regulations and eliminate the present one that allows increased industrialization and commercialization in rural areas of land and dedicated land under ALPP and farming in general.

Respectfully testifying, (9/20/2016)

*Brenda Stewart*

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Background of Resident, Dr. Brenda Stewart

Live on a farm in western Howard County - 46 years

Have raised beef cattle, horses, and produce roll bales

Graduate with B.S degree, cum laude, Rutgers University College of Agriculture and Environmental Science

Graduate with V.M.D Veterinary Degree , University of Pennsylvania Veterinary School

Past President of the Maryland Simmental Cattle Association

Past member of Ulman's Task Force on Zoning Changes Advice from Business, Farmers, Lawyers and Residents

Past President and Charter Member of Concerned Citizens of Western Howard County (CCWHC) civic association

Member of Howard County Civic Association (HCCA)

Member of the Joint Working Group (JWG) on reviewing Zoning changes for Howard 2030

Family Membership in Howard County Farm Bureau

Statement of Theodore F. Mariani FAIA PE MCRP  
16449 Ed Warfield Road  
Woodbine Md. 21797  
Hearing Date 19 September

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

I appear this evening as the President of CCWHC and with a perspective of both a farm owner that put our 185 acre farm into the County Ag program 25 years ago and also as the Chairman of the 1990 HC Study Commission on Rural Land Use that resulted in the formulation of the Cluster Zoning Regulations that curtailed the proliferation of 3 acre zoning while preserving land for agriculture and enhancement of the environment.

My first concern with this ZRA 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 my wife and I 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 installation " 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 over \$300 Million Dollars of tax funds have been committed to the program it is quite likely that an aggrieved adjacent land owner and taxpayer could sue the county for misappropriation of tax revenues.

Another issue that needs to be addressed is the requirement that for land taken out of the program to be used for non agricultural use the County must be equitably compensated. As an example when a land owner elects to create one acre lots for sale the County must be paid back exactly what was paid for the development rights. Assuming the county paid \$10,000 per acre for development rights a land owner wishing to install a 50 acre solar array would have to repay the county \$500,000 dollars.

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 55 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..

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.

Another concern is the proviso that the Ag Board review such applications and comment thereon. There are no guidelines established for how each application should be judged nor objective criteria on which to base a decision. Further the Ag Board composition , while well suited to evaluate the quality of the land for farming does not have the range of expertise to evaluate the impacts of such large scale industrial projects on the surrounding community.

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 uninhabitable.which led to a law suit against the city. The city ultimately spent many millions of 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.

Another issue is the restrictive covenants that are placed on each cluster preservation parcel. Many of these covenants are with third party entities such as Maryland Environmental Trust, Maryland Historical Trust, Patuxent Conservation Corps and various HOA's. It is unlikely that these parties would be willing to release encumbered land for commercial solar utilization. Even if such action were to occur, abutting home owners would have a right to bring a suit to prohibit such action.

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 in the range of 15 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 clearly 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 on Rural Land Use

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