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 <u>considerably</u> 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 <u>public</u> 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 <u>not</u> be similar to Forest Conservation and Wetland Mitigation requests on ALPP

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

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

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

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

CONCLUSIONS: Just say NO

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

2.) While this bill clearly benefits farmers and solar companies it is hard to determine the benefit to the general public.

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

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

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

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

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

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