

**HOWARD COUNTY
STATE AGRICULTURAL PRESERVATION ADVISORY BOARD**

3430 Courthouse Drive
Ellicott City, Maryland 21043
410-313-5407
www.howardcountymd.gov



Ricky Bauer, Chair

Jamie Brown, Member
Howie Feaga, Member
Ann Jones, Member
Savannah Kaiss, Member

Joy Levy, Executive Secretary

**2017 Agricultural Land Preservation Board
Meeting Minutes**

January
February
March – No Meeting
May
June
July – No Meeting
August – No Meeting
September
November – No Meeting
December – No Meeting

Note: No meetings are typically held in April and October due to the planting and harvesting seasons.



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

January 23, 2017

Attendance:

Board Members:

Lynn Moore, Chair
Rickey Bauer, Vice Chair
Mickey Day
Jamie Brown
Howie Feaga
Ann Jones

Public:

Amy Bruckmann
Ted Mariani, Oakdale Manor
Keith Ohlinger, Howard Soil Conservation District Board
Alice Settle-Raskin, Alice's AgriMaryland
Teresa Stonesifer, Triple Creek Farm
George Streaker Jr., Clearview Farm
F. Reed Wills, SunEast Development LLC

Staff:

Joy Levy, Administrator, Agricultural Land Preservation Program
Amy Gowan, Deputy Director, Department of Planning & Zoning
Lisa O'Brien, Senior County Solicitor, Office of Law
Beth Burgess, Resource Conservation Chief, Department of Planning & Zoning
Mitch Ford, Planning Technician, Agricultural Land Preservation Program

Ms. Moore called the meeting to order at 7:10 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of December 19, 2016

Ms. Moore called for the approval of the December 19, 2016 meeting minutes. Mr. Feaga moved to approve. Mr. Brown seconded the motion, which passed unanimously.

2) Request for Approval, Commercial Solar Facilities policy

Ms. Moore read the draft Commercial Solar Facilities (CSF) policy, giving the Board members time to comment after each section. Ms. Jones questioned the portion of the policy's purpose statement which states that the intent of Council Bill 59-2016 (CB 59-16) was solely to ensure that farmers remain economically viable. She stated her belief that the purpose of CB 59-16 was primarily to support State and County solar energy goals. Ms. Levy noted that the legislation did highlight several *PlanHoward 2030* policies related to the expansion of alternative energy options, in addition to the language regarding

benefits to the farming community. The Board agreed to add a section of the *PlanHoward 2030* language to the intent statement.

Ms. Jones referred to the first standard of review and suggested replacing the word ‘residue’ (used to describe the portion of the property not utilized for the CSF) with something that emphasizes the significance of the land remaining in agricultural use. After much discussion, the Board agreed on alternate language that accomplished this goal.

Ms. Moore questioned what is meant by the standard regarding placement of the CSF as it relates to a property’s environmental features, stating that the current language is vague and needs clarification. Staff indicated that streams, wetlands and Green Infrastructure areas would be included. Ms. Jones inquired whether the intent of this item is to state that CSF placement should minimize impact on any of the listed environmental features, and if so, the word “respect” should be replaced accordingly. Ms. Levy agreed that the intent is to minimize impact. The Board agreed with this change, as well listing the environmental features that should be protected for clarification.

Ms. Jones and Mr. Brown recommended a few additional edits for the submission requirements section to make it consistent with the rest of the policy document. Ms. Moore suggested language to stress that the Soil Conservation and Water Quality Plan must be current for any property proposing a CSF. The rest of Board agreed that this would be an appropriate revision.

After completion of the policy review, the Board agreed that it would be best to table the vote on the policy until the February meeting once the edits have been made to the document.

Discussion Items

1a) Program Updates

Ms. Levy noted that the three properties recently approved by the County Council (Iglehart, Cattail Meadows, and Pickett-Frey) are proceeding toward settlement, with the hope of finalizing all three by mid-February or early-March. The Sachs property will be reviewed by Council in March.

1b) Agricultural Land Preservation Board Chair Appointment

Chairwoman Moore’s term ends in April 2017, leaving an open seat on the Board. Ms. Moore asked about the process of selecting a candidate to take her place. Ms. Levy commented that the Department has been working on a list of possible candidates, but encouraged the Board members to contact David Lee in the County Executive’s office if they would like to make any recommendations.

1c) MALPF Uses Policy Guidelines

Ms. Moore brought up the proposed MALPF Uses Policy Guidelines that were recently due for comment by the ALPB. Ms. Levy stated that she has already submitted the few Board comments she received to MALPF, but that additional comments could potentially be added. Ms. Moore stated that her only concern is how MALPF could realistically monitor the customer capacity limitations set forth in the Guidelines. Mr. Feaga remarked that MALPF Board Trustee Michael Calkins has been working on reducing some of these restrictions on behalf of the farmers in Howard County.

1d) Upcoming Legislation: Growth Tiers Amendment & Right-to-Farm Amendment

In February, the County Council will review the County Executive's amendments to the Growth Tiers (SB 236-2012) and the Right-to-Farm legislation. Ms. Jones asked whether the Right-to-Farm legislation included a disclaimer statement for properties being sold adjacent to farmland in the County. Keith Ohlinger of the Howard Soil Conservation District Board stated that there is Right-to-Farm disclaimer language above the signature line on closing documents that advises homeowners of adjacent agricultural activity. Mr. Ohlinger added that this is a voluntary inclusion agreed to by the Maryland Association of Realtors, with whom he has been working closely. Mr. Ohlinger stated that ideally, legislation would be passed that would make it mandatory.

1e) ZRA 175: Exemptions to setback requirements

Ms. Moore discussed ZRA 175, which proposes to amend Section 128 of the Zoning Regulations to exempt farms in the RC Zoning District, and farms 20 acres or larger in the RR Zoning District, from Animal Shelter and Riding Academies and Stables setback requirements from dwellings on new residential lots. Mr. Feaga stated that this amendment would allow farmers the right to build these types of farm structures in accordance with property line setbacks, but would only be applied to new dwellings being constructed next to a farm. He noted that he would like make the setback requirement applicable only to farms in preservation and retroactive to when the farm came into the program. Mr. Feaga stated that he would support the Growth Tiers amendment only if the Council were to make the setback requirement retroactive. Current setbacks for animal shelters greater than 500 square feet are 200 feet from an existing dwelling, and animal shelters less than 500 square feet are 100 feet from an existing dwelling.

Ms. Gowan commented that ZRA 175 will be brought to the Planning Board on February 2, 2017. Ms. Moore suggested that the Board members should testify at the public hearing, either as a group or individually. With numerous opinions around the table, Ms. Moore called for a motion. In general, the Board agreed that the grandfathering clause should be removed from the ZRA, so that the farmers would not need to follow the dwelling setback regulations on any dwelling, regardless of whether it is new or existing. As a result, the animal shelter or riding academy/stable would follow the same setback as any other structure on the property. Mr. Bauer recommended that it would be easier to argue the case for this exception on ALPP properties only, rather than for all of the farms in the County. Mr. Brown disagreed with this perspective, citing that it would exclude farmers that are not in the program. Ms. Jones remarked that any farm is allowed to apply to the program, if they meet the eligibility requirements.

Mr. Brown introduced the following motion: exempt all agricultural properties from the grandfathering clause in ZRA 175. Ms. Moore called for the approval of Mr. Brown's motion. With no second, the motion died.

Mr. Feaga introduced the following motion: exempt all ALPP properties from the grandfathering clause in ZRA 175. Mr. Brown seconded the motion. The motion passed 5-1 with Mr. Brown in the dissent.

Ms. Moore stated that she would be in Hershey, Pennsylvania the day of the public hearing, noting the need for a representative to deliver testimony on behalf of the Board. Mr. Bauer volunteered to testify as Vice Chair, and Mr. Brown agreed to testify independently in support of his own motion.

1e) Howard Soil Conservation District Manager

Mr. Ohlinger announced that the Howard Soil Conservation District has hired David Plummer to replace Bob Ensor as District Manager. Mr. Plummer has served as the District Manager of the Montgomery Soil Conservation District for the past fourteen years. He is expected to take office on February 6, 2017.

Mr. Feaga moved to adjourn the meeting, which was seconded by Mr. Day and carried unanimously. The meeting adjourned at 9:30 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

February 27, 2017

Attendance:

Board Members:

Lynn Moore, Chair
Rickey Bauer, Vice Chair
Mickey Day
Jamie Brown
Howie Feaga
Ann Jones
Denny Patrick

Public:

Denise Dixon, Triple Creek Farm
Bob Haney, Country Springs Wholesale Nursery
Savannah Kaiss
Ted Mariani, Oakdale Manor
Keith Ohlinger, Howard Soil Conservation District Board
Alice Settle-Raskin, Alice's AgriMaryland
Alan Schneider, Howard County Citizens Association
George Streaker, Clearview Farm
George Streaker Jr., Clearview Farm
F. Reed Wills, SunEast Development LLC
James Zoller, Howard County Agricultural Sub-Cabinet

Staff:

Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior County Solicitor, Office of Law
Mitch Ford, Planning Technician, Agricultural Land Preservation Program

Ms. Moore called the meeting to order at 7:10 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of January 23, 2017

Ms. Moore called for the approval of the January 23, 2017 meeting minutes. Mr. Day moved to approve. Mr. Feaga seconded the motion, which passed unanimously.

2) Request for Approval, Commercial Solar Facilities policy

Before discussing the Commercial Solar Facilities policy, Ms. Levy notified the Board that Mr. Bauer contacted her earlier in the day to discuss the withdrawal of *HB 863 State Agricultural and Conservation Property Interests – Solar Facilities (Right to Solar Farm)*. HB 863 would have changed the acreage

limitation of a commercial solar facility on MALPF easements from 5% to 25% of the easement property's size. Mr. Bauer told Ms. Levy that he didn't know the nature of the conflict but he was concerned that county easement properties might be affected and he wanted to give Ms. Levy a chance to research the issue before the meeting.

Ms. Levy contacted Carol West, Executive Director of MALPF, who informed her that on February 27, 2017, the Environment and Transportation Committee of the Maryland House of Delegates withdrew the legislation due to potential conflicts with the Internal Revenue Service (IRS) Tax Code, which apparently will penalize commercial utility leases on preservation easements. Ms. West explained that since many MALPF easements are partially funded with federal money, there might be consequences for those property owners. In addition, a lot of MALPF applicants are willing to discount their easement offer in order to be competitive. If an easement on a discounted offer property is acquired, the farmer may possibly qualify for a charitable deduction claim on their federal taxes, which, again, might have consequences. Ms. West indicated that this issue with the IRS was discovered late in the process and there are still a lot of unknowns, so the legislation was pulled. She noted that it may go to summer study.

Ms. Levy indicated that based on her conversation with Ms. West, she is unsure whether county easements would be affected since there is no federal funding used to acquire ALPP easements, and that the scoring system utilized to determine easement price doesn't allow for discounting. Ms. Jones noted that the older ALPP easements could possibly be affected since appraisals were used in the early days of the program, and discounting did occur. The Board then discussed the potential conflicts that could arise between the IRS and farmers entering into the ALPP. Ms. Moore recommended that landowners should speak with their tax advisors before considering commercial solar on their easement. Mr. Feaga stated that we should include an advisory statement on the Commercial Solar Facilities Application Submittal Checklist. Ms. O'Brien disagreed with the Board, stating that the County should not be offering tax advice to its citizens. She noted that easement property owners should already be in contact with their tax advisors or accountants, and that they should be aware of potential income tax consequences of entering into a lease agreement on easement land.

Mr. Feaga introduced a motion to include a footnote statement, describing the potential IRS consequences of entering into a lease agreement with a solar facility, on page two of the Commercial Solar Facilities Application Submittal Procedure & Checklist document. Ms. Jones seconded the motion, which passed unanimously.

Commercial Solar Facilities policy

Ms. Moore read the Commercial Solar Facilities policy. After discussion about several items, Ms. Moore called for the approval of the Commercial Solar Facilities policy as written and reviewed. Mr. Day moved to approve the policy and Mr. Brown seconded the motion. Mr. Bauer recused himself from voting on the policy because he recently signed a lease with a solar company. The Commercial Solar Facilities policy was passed with six members voting to approve and one member abstaining.

Commercial Solar Facilities Application Submittal Procedure & Checklist

Ms. Moore read the Commercial Solar Facilities Application Submittal Procedure & Checklist document. After reading the document, the Board discussed the addition of the IRS footnote at the end of the second page. Ms. Jones mentioned that the disclosure footnote should warn individuals of the potential consequences from the IRS. Ms. O'Brien stated that she would research an appropriate statement to address the Board's concerns.

Discussion Items

1a) Program Updates

Ms. Levy announced that the County settled on the Iglehart easement on February 16th, and that the Cattail Meadows easement is scheduled for settlement on March 9th. Additionally, Ms. Levy is waiting on one item before being able to settle on the Pickett-Frey property. Lastly, the Sachs property will be going to the County Council in March.

1b) Nomination of Savannah Kaiss to Chairwoman of the Agricultural Land Preservation Board

Chairwoman Moore's term ends in April 2017, leaving an open seat on the Board. Ms. Levy introduced potential nominee Savannah Kaiss. Ms. Levy noted that there were several people who expressed interest and that staff is seeking to diversify the makeup of the Board in regards to age, gender, and farming operation. Ms. Kaiss addressed the Board, stating that she and her husband operate a malting facility for local breweries throughout Maryland. Ms. Levy stated that Ms. Kaiss's nomination should go before Council in April.

Ms. Levy noted that individuals interested in being appointed to the two upcoming vacancies should contact Mr. David Lee of the County Executive's office.

2a) Discussion with James Zoller, Howard County Agricultural Coordinator, regarding ALPB advisory role to Agricultural Sub-Cabinet

Mr. Zoller discussed the new Agricultural Sub-Cabinet formed under County Executive Kittleman. At last month's Agricultural Roundtable, Mr. Feaga brought up farmer representation on the Sub-Cabinet. Mr. Zoller asked the Board if they would be interested in serving in an advisory capacity to the Sub-Cabinet. As an advisory board to the Sub-Cabinet, Mr. Zoller would brief the Board each quarter and consult with them about the County Executive's priorities.

Ms. Moore applauded the idea of being advisory to the Sub-Cabinet, stating that this would strengthen communication between the government and the farming community. She added that the more contact there is the better, in order to ensure efficiency in resolving conflict.

2b) Commercial vehicles and transporting of agricultural goods

Mr. Bauer asked Mr. Zoller about the status of commercial vehicles being used for transporting agricultural goods. Mr. Zoller said that the Agricultural Sub-Cabinet has been working with Zoning in order to determine what the current zoning is for commercial vehicles, stating that there was some confusion as to whether a farm-tagged vehicle would be considered a commercial vehicle. Mr. Zoller explained the current proposal which would not classify farm-tagged vehicles as commercial. Farm-tagged tractors that pull a trailer would follow agricultural classification as well. Commercial-tagged trucks would remain assessed as commercial vehicles.

Ms. Moore questioned whether or not weight was a factor for this issue. Mr. Zoller stated that most agricultural trailers can hold up to 60,000 pounds, as long as they are tagged with farm tags and are hauling agricultural products. Mr. Day stressed the importance of stipulating the transportation regulations in order to prevent confusion on both sides. There was additional discussion about various aspects of state and federal law that govern the licensing of farm vehicles, with everyone noting that there is a lot of uncertainty and some conflicting information on this issue.

2c) CB 22-2017: Exemption for farms in the RC Zoning District and farms 20 acres or larger in the RR Zoning District, from animal shelter and riding academy/stable setback requirements from new dwellings

Mr. Ohlinger called the Board's attention to CB 22-2017, which would exempt farms in the RC Zoning District and farms 20 acres or larger in the RR Zoning District, from animal shelter and riding academy/stable setback requirements from new dwellings. Mr. Ohlinger noted that he has been discussing several related issues with Deputy Director Amy Gowan, including an additional exemption for three-side animal structures. He added that Zoning interprets this exemption cumulatively for all animal structures equaling less than or equal to 500 square feet. Mr. Ohlinger explained that the original intent of the legislation was for each animal structure to have a maximum footprint of 500 square feet.

Ms. Moore suggested that if members of the agricultural community are experiencing issues related to this topic, then the Board can reconvene on the matter. Mr. Bauer added that the Planning Board voted to grandfather the setbacks for properties in the ALPP to the date the easement was acquired. Mr. Bauer stated his belief that the testimony of several farmers made the difference in how the Planning Board voted.

Ms. Jones moved to adjourn the meeting, which was seconded by Mr. Day and carried unanimously. The meeting adjourned at 8:35 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board



**HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD**

May 22, 2017

Attendance:

Board Members: Ricky Bauer, Chair
Mickey Day, Vice Chair
Jamie Brown
Howie Feaga
Ann Jones
Savannah Kaiss
Denny Patrick

Elected Officials: The Honorable Mary Kay Sigaty, Howard County Councilmember for District 4

Public: Keith Ohlinger, Howard Soil Conservation District Board

Nancy Emory, Elm Lee Farm
Brenda Fleming-Warner, Elm Lee Farm
Darrell Fleming, Elm Lee Farm
Lee Fleming, Elm Lee Farm
Stephen Fleming, Elm Lee Farm
Teresa Stonesifer, Triple Creek Farm

Staff: Amy Gowan, Deputy Director, Department of Planning & Zoning
Beth Burgess, Resource Conservation Division Chief
Joy Levy, Administrator, Agricultural Land Preservation Program
Mitch Ford, Planning Technician, Agricultural Land Preservation Program
James Zoller, Howard County Agricultural Sub-Cabinet

Mr. Bauer (Acting Chair) called the meeting to order at 7:05 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of February 27, 2017

Mr. Bauer called for the approval of the February 27, 2017 meeting minutes. Mr. Feaga moved to approve. Mr. Day seconded the motion, which passed unanimously.

2) Election of Board Chair and Vice Chair

The Board conducted an election of a new Chair due to Ms. Moore's departure at the end of her term. Mr. Feaga motioned to nominate Mr. Bauer, which was seconded by Mr. Day. Mr. Feaga then motioned to

nominate Mr. Day to replace Mr. Bauer as Vice Chair, which was seconded by Mr. Patrick. With no other nominations, Mr. Feaga moved for approval of both nominees, which passed unanimously. Mr. Bauer's and Mr. Day's roles became effective immediately.

2) Request for Approval, Agricultural Subdivision, Fleming property, 13-82-06e, 175.4 acres (APAB)

Ms. Levy read the staff report stating that the Donald and Shirley Fleming Revocable Trusts are the current owners of the subject property, which was placed in the Maryland Agricultural Land Preservation Foundation (MALPF) program on May 20, 1985 by Donald and Shirley Fleming. The current request is to divide 50 acres from the 175 +/- acre Fleming farm to create a separate parcel to be transferred to the Gentle Giants Draft Horse Rescue (GGDHR) property to the south, to provide them with additional acreage to pasture their horses. The 50 acres to be transferred is in pasture, hay and woods. The GGDHR rescues draft and draft cross horses from slaughter, abuse, and neglect. This proposal would allow the rescue to accommodate the increasing number of animals in need of their care, and would not affect the current Fleming operation of crops for sale and grasslands for hay production.

GGDHR is comprised of two perpetual Howard County environmental preservation parcels that border the Fleming farm to the south and southeast. The proposed agricultural subdivision parcel is located on the south side of the Fleming property affronting the property boundary shared with GGDHR. Under this proposal, the subdivision line runs east and north alongside the Fleming driveway as it traverses the farm, and then continues east, following existing hedgerows, to the edge of a hayfield. To achieve the minimum size of 50 acres, the proposed subdivision line then crosses the hayfield to reach the eastern property boundary. There are no dwellings or structures on the proposed 50-acre parcel to be transferred to GGDHR. There will also be no public vehicular access to GGDHR from the Fleming driveway. After subdivision, the Fleming farm will contain approximately 125 +/- acres, which will continue to be owned and operated by the family.

Ms. Levy called the Board's attention to the standard map set showing the proposed delineation of the subdivision, along with the MALPF Agricultural Subdivision Application Form, and the soils capability class analysis. The analysis showed that both parcels under this proposal sufficiently meet MALPF requirements of at least 50% USDA soil capability classes I, II, & III. The proposed 50-acre subdivided parcel to be transferred to GGDHR has a soils composition of 68.5% classes I, II, & III. The new configuration of the 125-acre Fleming farm has a soils composition of 55.8% classes I, II, & III.

Ms. Levy recommended that the APAB recommends approval to the MALPF Board of Trustees.

Mr. Bauer called for questions and discussion.

Mr. Feaga inquired about principal dwelling rights associated with the proposed subdivided property for GGDHR. Ms. Levy stated that the Fleming family has already conferred with MALPF about their options for transferring a dwelling right, and is planning on postponing that discussion until a later date. Mr. Stephen Fleming agreed, and added that the GGDHR owners are primarily looking for additional pastureland for their horses and are not so concerned about the ability to build a house.

Mr. Feaga stated his concern about having a vacant agricultural property without any dwelling rights. Ms. Jones opined that once they sell the parcel to GGDHR, the Fleming family would not have the option to transfer dwelling rights. She added that this information needs to be specified to prevent confusion down the road.

Ms. Levy responded by stating that MALPF would draft an amended and restated Deed of Easement for the Fleming property, in which the various rights associated with each parcel would be clearly identified.

Mr. Brown moved for approval of the request. Mr. Feaga seconded and amended Mr. Brown's motion to request that MALPF should specify the dwelling rights in the amended and restated Deed of Easement for the new parcel to be purchased by GGDHR. The amended motion passed unanimously.

Discussion Items

1) Program Updates

Ms. Levy announced that the ALPP settled on the Frey and Sachs easements on May 18th. She added that the Ziegler Family Trust and the Trust for the Benefit of Thomas Lee Carroll properties in Ellicott City are scheduled for legislative pre-file in June and County Council review in July.

2) Commercial Trucking

Mr. Zoller circulated an analysis he completed focusing on the price differences between Maryland agricultural tags and Maine commercial tags for trucking. Maine commercial tags are often used by farmers for hauling agricultural products, since they are affordable and accessible. Mr. Zoller highlighted the fact that Maryland agricultural tags cost slightly more than the Maine tags over a long period of time, but the annual price difference is minimal. By selecting a Maryland ag tag over the Maine commercial tag, farmers would be in complete compliance with DPZ. The Maryland Motor Vehicle Administration requires that only agricultural products be transported under ag tagged vehicles. Mr. Zoller added that the ag tags would give farmers the same travel distance granted from the Maine tags, and the ability to transport any agricultural product they desire.

Several Board members questioned Mr. Zoller's suggestion of switching to Maryland ag tags due to the added costs, and the apprehension that neighbors would manage to find problems with ag tagged vehicles. Ms. Jones requested that they table this discussion until next month's meeting.

3) Natural Wood Waste Recycling Facilities (NWWRFs) and Composting Facilities (CFs) – Zoning Regulation Amendment (ZRA) - 180 (co-sponsored by County Executive Allan H. Kittleman, Councilmembers Mary Kay Sigaty & Greg Fox), and ZRA-160 (submitted by the Dayton Rural Preservation Society)

Mr. Ford circulated the DPZ Technical Staff Report (TSR) for ZRA-180. Ms. Gowan noted the long and contentious history of the NWWRF (mulching) and composting issues. She stated that after several years of task force meetings, she feels that ZRA-180 represents a very good compromise. Ms. Gowan drew the Board's attention to Appendix C of the TSR (shown below) that details both the current conditions and the effects of ZRAs 160 and 180.

Appendix C - Comparison Chart
ZRA 160 and ZRA 180

| Composting | | | | | | | | | |
|-----------------------------|----------------------------|-----------------|---------------|---|--|--|----------------------------|--|---|
| | Current | | | ZRA 160 * | | | DPZ Recommendation ** | | |
| | MDE Permit Not Required | MDE Tier I | MDE Tier II | MDE Permit Not Required | MDE Tier I | MDE Tier II | MDE Permit Not Required | MDE Tier I or Tier II Small Permit | MDE Tier II Large Permit |
| RC & RR | Accessory to principal use | Conditional Use | Not Permitted | On Farm/For Farm - By Right with restrictions | On Farm/For Farm - By Right - Up to 1 acre or 5% On Farm/For Farm - By Permit - Up to 3 acres or 5% | On Farm/For Farm - By Permit - Up to 3 acres or 5% | Accessory to principal use | By Permit < 3 acres accessory to a farm All Other - Conditional Use - Up to 5 acres or 10 % | Conditional Use - Up to 5 acres or 10 % |
| ALPP | Accessory to principal | Not Permitted | Not Permitted | On Farm/For Farm - By Right - with restrictions | On Farm/For Farm - By Right - Up to 1 acre or 5% On Farm/For Farm - By Permit - Up to 3 acres or 5% | On Farm/For Farm - By Permit - Up to 3 acres or 5% | Accessory to principal use | By Permit < 3 acres accessory to a farm | Not Permitted |
| M-1 | Accessory to principal | Conditional Use | Not Permitted | Not addressed | Conditional Use | Conditional Use | Accessory to principal use | By-Right | Conditional Use |
| M-2 | Accessory to principal | Not Permitted | Not Permitted | Not addressed | Conditional Use | Conditional Use | Accessory to principal use | By-Right | By-Right |
| SW | Accessory to principal | By-Right | Not Permitted | Not addressed | Not Permitted | Not Permitted | Accessory to principal use | By-Right | By-Right |
| R-20, R-12, R-SC, R-BA 8 | Accessory to principal | Not Permitted | Not Permitted | Limited composting-By-Right with restrictions | Not Permitted | Not Permitted | Accessory to principal use | Not permitted | Not permitted |

| Natural Wood Waste Recycling | | | | | | |
|------------------------------|-------------------------------|---------------------|--|---------------------|-------------------------------|--|
| | Current | | ZRA 160 | | DPZ Recommendation | |
| | MDE Permit Not Required | MDE Permit Required | MDE Permit Not Required | MDE Permit Required | MDE Permit Not Required | MDE Permit Required |
| RC & RR | Accessory to a principal Farm | Conditional Use | On Farm/For Farm - By Right - Up to 1 acre or 5% | Not Permitted | Accessory to a principal Farm | Conditional Use - Up to 5 acres or 10 % |
| ALPP | Accessory to a principal Farm | Not Permitted | On Farm/For Farm - By Right - Up to 1 acre or 5% | Not Permitted | Accessory to a principal Farm | Not permitted unless accessory to a principal Tree Farming Use Only (Conditional Use) - Up to 2 acres or 15% of area actively farmed |
| M-1 | By-Right | By-Right | Not addressed | Conditional Use | By-Right | By-Right |
| M-2 | By-Right | By-Right | Not addressed | Conditional Use | By-Right | By-Right |

Figure 1: Appendix C – Comparison Chart from the DPZ Technical Staff Report for ZRA-180.

Ms. Gowan explained that under ZRA-180, mulching and composting would follow the classification and permitting structure of the Maryland Department of the Environment (MDE). Mulch and/or composting operations on farms that do not require an MDE permit are considered accessory to the principle farming operation. MDE classifies waste material as either Natural Wood Waste (e.g. stumps, logs), or Type 1 and 2 Feedstocks (composting materials). Type 1 is considered general yard waste (e.g. leaves, grass), and Type 2 consists of food scraps, non-recyclable paper, animal manure and bedding, industrial food processing materials, animal mortalities, and compostable products.

Composting Facilities (CFs)

ZRA-180 proposes that if MDE determines that the scale of a CF is such that it requires a Tier I or Tier II Small Permit, then it could be permitted through a Special Farm Permit if it is less than three acres. And accessory to the principal use of the farm. In this case, a permit similar to the one given for other farm related uses (such as agritourism or pick-your-own) would be issued. Ms. Gowan highlighted Appendix A of ZRA-180 that details exemptions for on-farm and non-farm composting, which would be exempt from an MDE permit and therefore permitted locally as accessory uses.

If a non-ALPP farm operation in the Rural Residential (RR) or Rural Conservation (RC) Zoning Districts requires a MDE Tier I or Tier II Small Permit, but is greater than 3 acres or not considered accessory, ZR-180 proposes that it be allowed by Conditional Use (CU), up to a maximum of 5 acres or 10% of the property. ALPP properties are not eligible for an MDE Tier II Large Permit for CFs. Ms. Gowan explained that after consulting with County Environmental Services, DPZ found that the costs, size, and intensity of a Tier II -large Composting Facility would not be within the range of most operations. Mr. Feaga and Mr. Bauer commented that the ZRA excluded properties in the ALPP from fully participating in this type of operation, compared to non-preserved farms. Mr. Bauer added that the County previously granted a CU for mulching and then took away that option away from farmers.

Councilmember Sigaty responded to Mr. Bauer’s concerns by stating that the Zoning Regulations do not have any existing language that supported diversified composting beyond yard waste. Ms. Sigaty added that ZRA-180 is a middle-of-the-road approach and is still a work in progress. Both Ms. Sigaty and Ms. Gowan encouraged the Board members to provide input to the Planning Board and the County Council.

Ms. Sigaty asked that they pay particular attention to the setbacks outlined for the NWWRFs and CFs, noting that the proposed setbacks for both facilities are less than current regulations.

Mr. Feaga commended Ms. Gowan and Ms. Sigaty for their dedication to resolve the issue, and explained that his concern is the disparity between permitted uses on preserved farms versus non-preserved farms. He noted that farms in the ALPP merely sold their development rights and should be treated with fairness. Ms. Jones praised the MDE Tier approach, since it simplified and streamlined the entire process and aligned it with state regulations.

Ms. Sigaty expressed that she does not want this proposal to impede anyone's farming business, and she encouraged the Board to share the ZRA with members of the community. She noted that she aspires to have a good product that is workable for everyone involved throughout the county.

Natural Wood Waste Recycling Facilities

Ms. Gowan presented the Natural Wood Waste Recycling (mulching) component of ZRA-180, by stating that it would be treated in a similar fashion to composting. For both the ALPP and non-ALPP RR and RC properties, if an operation is mulching on-farm/for-farm, the activity would be exempt from MDE permitting and would be considered accessory to the farming use. If an operation wishes to sell the mulching product, then an MDE permit would be required. This type of transaction would only be permitted on ALPP properties as an accessory to a principal tree farming use, and would require conditional use approval for a maximum of up to (the lessor of) 2 acres, 2% of the easement or 15% of the area being actively farmed. Reasons for this farming area size stem from the need to reserve higher intensity mulching for major tree farms in the county. RC and RR properties that are not in Ag Pres would be able to do mulching operations with an MDE Permit only through a CU on up to 5 acres or 10% of the property. Another component from the Mulch Task Force meetings was fire code regulations for mulch piles. While fire related regulations were not included in the ZRA, they were included in the recent fire code update. Ms. Sigaty explained that mulch piles must be less than 18 feet in height. This height limitation is required to promote public safety and prevent the spread of fire.

Mr. Bauer asked if the exchange of wood waste for mulching between farmers would be allowed under these conditions. Ms. Gowan confirmed that this would be permitted, and that DPZ understands the need for these types of inter-farm exchanges. Ms. Sigaty added that the wood waste material from residential neighbors could also be mulched by farmers.

Mr. Feaga recommended that the emergency provision of ZRA-180 should provide more flexibility in the case of a natural disaster. He contemplated proposing changes that would include the possibility of emergency scenarios, like the 2016 tornado. During the weeks following the tornado, the need to grind trees, stumps, and wood waste debris in the west was high. Overall, he believed that the permitting process for this type of emergency should be as simple as possible.

Ms. Gowan stated that if MDE did not require a permit for an emergency facility, then the County would not either. If MDE does require a permit for this type of activity, then a special farm permit could be obtained relatively quickly from DPZ to begin emergency mulching.

Mr. Feaga and Mr. Brown both expressed concern for the added delay caused by work week limitations in the case of a weekend disaster event.

Motion to Give Public Testimony on Behalf of the ALPB to Endorse ZRA-180

The Board agreed to develop public testimony in favor of ZRA-180. Ms. Jones motioned for a representative of the ALPB to present the testimony at the May 25th Planning Board meeting in support of ZRA-180 by generally stating:

We, the Agricultural Land Preservation Board, endorse the conditions contained in ZRA-180 and do not recommend ZRA-160. The ALPB is in favor of regulations for operations which are essential to agricultural operations in Howard County, and find ZRA-180 goes a long way in addressing the needs for Natural Wood Waste Recycling Facilities and Composting Facilities. In conducting composting and mulching, we recognize that farms may take in stock and farms may sell stock, and that this is considered normal activity for a farm. Furthermore, the ALPB supports the need for these types of facilities in the case of emergencies caused from natural disasters.

Mr. Feaga seconded the motion, and it passed unanimously.

3) ALPP Reference Binder Update

Mr. Ford circulated and presented the ALPP Reference Binder Update packet containing new information for the Board. The update included the 2018 ALPB Meeting Schedule, 2017 ALPB Roster, 2016 ALPB Agendas, and new code language for Subtitle 5 (Ag Act), Section 12.111 (Right to Farm), Section 104 (RC Zone), Section 105 (RR Zone), and Section 106.1 (County Preservation Easements). The update also had new policies and code information related to commercial solar facilities, animal shelter setbacks, MALPF approval for uses, MALPF uses guidelines, and MALPF termination of easement.

Mr. Brown moved to adjourn the meeting, which was seconded by Ms. Jones and carried unanimously. The meeting adjourned at 9:23 p.m.

Joy Levy, Executive Secretary
Agricultural Land Preservation Board



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HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

June 19, 2017

Attendance:

Board Members: Ricky Bauer, Chair
Jamie Brown
Howie Feaga
Ann Jones
Savannah Kaiss
Denny Patrick

Staff: Beth Burgess, Resource Conservation Division Chief
Lisa O'Brien, Senior Assistant County Solicitor
Joy Levy, Administrator, Agricultural Land Preservation Program
Mitch Ford, Planning Technician, Agricultural Land Preservation Program

Mr. Bauer called the meeting to order at 7:05 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of May 22, 2017

Mr. Bauer called for the approval of the May 22, 2017 meeting minutes. Mr. Feaga moved to approve. Mr. Patrick seconded the motion, which passed unanimously.

2) Request for Retroactive Approval, Accessory Solar Panel System for Farm and Residence, Hanson & Lavine property, 13-02-02e, 21.22 acres (APAB)

Ms. Levy read the staff report stating James Hanson and Elizabeth Lavine are the original and current owners of the subject property, which was placed in the Maryland Agricultural Land Preservation Foundation (MALPF) program on October 22, 2003. The current request is to retroactively approve an accessory solar panel system for the farm and residence that has already been constructed.

Mr. Hanson and Ms. Lavine have owned the farm since 1999, and currently operate a horse boarding and breeding business on the property. In early 2017, the landowners planned to construct an accessory ground-mounted solar panel system to support their agricultural structures and principal dwelling to reduce operational costs and to diversify their methods of energy attainment. At the regularly scheduled MALPF inspection on March 30, 2017, the property owners indicated that the system would be constructed in early April. MALPF notified the landowners of the need for retroactive approval on May 19, 2017.

The solar panel system is approximately 2,750 square feet in size (55 feet by 50 feet), and is located southwest of the principal dwelling, just west of the in-ground pool. The system itself consists of 105 ground-mounted panels divided between two rows. It is grid connected, meaning surplus energy generated from the solar panels that is not used on the farm is returned to the main electric grid. Access to the system is provided by the property's pipestem driveway to MacClintock Drive, with direct access via the front and side yards of the residence.

The system is consistent with MALPF's "General Guidelines of Alternative Energy Requests" for easement properties. It is being used as an alternative source of energy to support the agricultural operation and the residence, and not for commercial use. The location of the system does not remove a significant amount of acreage from agricultural production, since it only slightly reduces the size of one of the farm's sacrifice lots, and area that is referred to that way due to the heavy use and grazing by the horses. In addition, the system is appropriately positioned in the backyard area of the residence, away from the agricultural operation and horse paddocks. The energy generated from the system will amount to approximately 86.6% of the energy being used on site, which is consistent with MALPF's maximum of 125%. BGE will provide the remaining electricity. Lastly, the system is only being used to support this MALPF easement, and no other properties in the area.

Ms. Levy noted the following attachments to the staff report: the standard map set highlighting the location of the solar panel system, a copy of the owner's request letter, map of the farm operation, copies of electric bills from BGE, and a photograph of the existing facility provided by Mr. Hanson.

Staff recommends that the Agricultural Preservation Advisory Board recommends approval to MALPF of the request to retroactively approve the accessory solar panel system for the farm and residence.

Mr. Bauer called on the Board for questions and discussion.

Mr. Feaga recommended approval commenting that the system is placed in a suitable location within the operation. Ms. Jones seconded the motion, which passed unanimously.

Discussion Items

1) Program Updates

Ms. Levy announced that the County Council will be voting on the acquisition of the Ziegler Family Trust and the Trust for the Benefit of Thomas Lee Carroll properties in late July. She added that she and Mr. Ford met with Natalie Ziegler to conduct a site visit for both properties. Mr. Ford announced to the Board that this would be his last meeting due to his resignation.

2) ALPB Open Meetings Act Training Presentation

Mr. Ford circulated the ALPB Open Meetings Act Training Presentation packet, and then conducted the Power Point presentation, with Ms. O'Brien assisting with legal issues. Mr. Ford stated that all Howard County boards and commissions have recently conducted training presentations focusing on board rules, responsibilities and meeting management, as well as the Maryland Open Meetings Act.

Mr. Ford gave an organizational overview of the Department of Planning & Zoning (DPZ) and the ALPB. This portion of the presentation focused on history, background, and member composition of the Board. Key points included meeting format and pre-meeting preparation, ex-parte contact, recusal, and reasons for board removal. The general overview was followed by training on the Open Meetings Act (*Annotated Code of Maryland Sections 3-101 – 3-501*). The Open Meetings Act was established with the intent to

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expand the ability of the public to attend meetings of public bodies and to witness the phases of deliberation, policy formation and decision making to ensure the accountability of government to the citizens of the State. The presentation also highlighted best practices to ensure Open Meetings Act compliance, board professionalism, and Open Meetings Act enforcement.

Ms. O'Brien stated that at least one member of the Board must take the Open Meeting Act Training Webinar provided by the University of Maryland in order to fulfill the law's requirements. Then the certified Board member will be able to assist the Board with Open Meetings Act compliance.

Mr. Patrick asked counsel about the extent of ex-parte contact in context of the ALPB. Ms. O'Brien clarified by stating that ex-parte contact is more commonly an issue in a judicial environment, but still has some application to the ALPB. She stated that if Board members become aware of something relevant to an ALPB issue, they should disclose the information to the rest of the Board. Ms. Burgess added that Board members should consult with Ms. O'Brien if they have questions about recusal or any other procedural matters during a meeting.

Mr. Feaga asked if a Board member can provide information about ALPP policy and procedures to individuals in the community who have questions or concerns. Ms. Levy stated that people should contact staff directly on these matters due to their administrative and legal complexity. Mr. Feaga remarked that Board members may have different interpretations than staff when it comes to the ALPP law and policy. Ms. O'Brien stated that board members should make sure they are representing their own opinions, and not the County's position, when conversing with citizens about the ALPP.

Ms. Jones asked about the validity of Board communication outside of a meeting via social media and email to discuss alterations to the Board's testimony regarding amendments to pending County Council legislation. Mr. Bauer and Mr. Feaga agreed that there should be flexibility in developing ALPB testimony due to the dynamic nature of the legislative process. Ms. O'Brien said that this type of convening would be a close call when it comes to violating the Open Meetings Act. She suggested that the Board Chair contact the Program Administrator with proposed testimony changes. Ms. Levy would then contact the rest of the Board to ensure there is an open discussion and majority agreement.

Ms. Jones commented that the Board meetings should be able to provide an open forum for discussion with concerned citizens. Mr. Feaga strongly agreed and stated that farmers should be able to speak at a meeting without having to be placed on the agenda in advance of the meeting. Ms. Jones cited the example of the Howard County School Board's open forum where parents express concerns directly to the Board. She suggested that this open forum interaction would be the neighborly thing to do to.

Ms. Burgess remarked that an open forum discussion may interfere with the Open Meetings Act because all affected parties may not be present if there is no publicly posted agenda. Ms. O'Brien read the Board's rules and responsibilities outlined in Section 15.518(h) of the Howard County Code, and stated that Council would need to approve an amendment to the Board's purview to include this role.

Mr. Bauer questioned staff being the resource for people to go to for assistance. He opined that staff represents government, and government is not widely trusted, especially in the farming community. He stated that farmers should be able to come to a board of their peers. Mr. Brown disagreed with Mr. Bauer's statement regarding government, citing Councilmember Mary Kay Sigaty's attendance at the May 22, 2017 meeting to discuss solutions to the mulching and composting issue. He added that the Board should not be a place for everyone to raise their personal problems.

Ms. Burgess suggested that it would be helpful if the Board communicated to their peers that they are working in tandem with staff, who assist members of the agricultural community with various issues. She added that being on the ALPB is a privilege since members have increased awareness and communication regarding County business.

Ms. Jones expressed her discomfort with not allowing guests to speak openly about their own issues. Mr. Brown disagreed by stating that he appreciates the current meeting format, and would find an open forum to be very uncomfortable for ALPB decision making. He noted upcoming term expirations as another reason to refrain from major changes to the ALPB meeting rules.

Ms. Burgess reiterated that allowing people to show up and speak would be unfair to anyone else with an interest in the issue presented since they would not have the benefit of a posted agenda. Ms. O'Brien commented that she understands Ms. Jones's reasoning for wanting an open forum. However, she stated that the ALPB was not formed for that purpose, and cannot legally function in that capacity without the Council amending Section 15.518(h) as well as changes being made to the ALPB Rules of Procedure.

Mr. Brown moved to adjourn the meeting, which was seconded by Mr. Feaga and carried unanimously. The meeting adjourned at 8:45 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board



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HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

September 25, 2017

Attendance:

Board Members: Ricky Bauer, Chair
Jamie Brown
Howie Feaga
Ann Jones
Savannah Kaiss
Denny Patrick

Staff: Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor
James Zoller, Office of Community Sustainability

Public: Denise Dixon, Triple Creek Farm
Tom Meachum, Carney Kelehan, LLP
Eric Stonesifer, Triple Creek Farm
Gary Stonesifer Triple Creek Farm
Teresa Stonesifer, Triple Creek Farm
Barb Sullivan, Oak Springs Equestrian
Herbert Sullivan, Oak Springs Equestrian
Reed Wills, Sun East

Mr. Bauer called the meeting to order at 7:05 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of June 19, 2017

Mr. Bauer called for the approval of the June 19, 2017 meeting minutes. Mr. Patrick moved to approve. Mr. Feaga seconded the motion, which passed unanimously.

2) Request for Approval, Tenant House, Sullivan property, HO-86-09-E, 84 +/- acres (ALPB)

Ms. Levy read the staff report, providing the history of the ownership, exchange of rights and previous requests. The current owners are siblings Herbert and Kimberlie Sullivan, children of the original grantor. Ms. Levy stated that two of the three allowable tenant houses have already been approved and built, and are resided in by the owners. The current tenant house request is for Michael Sullivan, Herbert's son, and his wife, Ashton.

Ms. Levy stated that various improvements have been made on the farm over the years as the horse operation has grown, including the construction of barns, indoor and outdoor riding rings, and fencing. The remainder of the farm is still in crops and cattle. According to the current request letter, Michael Sullivan is involved with daily upkeep and maintenance on the farm, and his role will increase over time. Ashton Sullivan is an accomplished equestrian, with expertise in Western horsemanship. She is already bringing business to the farm due to this specialized niche. In addition to enhancing the existing equine operation, she will be involved with day-to-day chores and will manage lessons and clinics. The couple will be able to take on these additional responsibilities more easily if they can live on site.

Ms. Levy noted that staff conducted a site visit on September 12 to review the operation and see the proposed dwelling location, which is on a knoll in a hay field about halfway back into the property, and close to the existing farm lane. The house will be between 1,800-2,000 square feet, and it doesn't appear that it will have any negative impact on the farming operation.

Staff recommended approval of the request to locate a tenant house, subject to the applicant obtaining all appropriate county and state permits and approvals.

Mr. Feaga asked where the principal dwelling is. Ms. Levy stated that there is no principal dwelling, but the right exists to request one. Both of the existing dwellings are considered tenant houses.

Mr. Bauer asked if there were any questions or comments. There being none, Mr. Brown made a motion to approve the tenant house request on the Sullivan property. Mr. Feaga seconded and the motion passed unanimously.

Discussion Items

1) Program Updates

1a) Ms. Levy announced that the Ziegler Family Trust and the Trust for the Benefit of Thomas Lee Carroll properties went to settlement on August 29. She added that these were the last two properties in the acquisition pipeline, and that the County Executive is currently reviewing potential changes to the scoring system to ensure the best remaining properties are preserved. She stated that the program is in a holding pattern until he has a chance to review. Ms. Levy thanked the Board members for their work in reviewing the acquisitions.

Ms. Jones asked if the County Executive is considering not funding the program in the future. Ms. Levy said she doesn't think that is his intent. She stated that he wants to make sure that the scoring system reflects our current priorities for acquisition and that we maximize the money that is available.

Ms. Jones opined that if the ag preservation money gets reallocated in the future that she hopes that it will be looked at comprehensively, because there are a lot of ways the funding could benefit the ag community. Ms. Levy stated that once the first crop of IPAs gets paid off in the next handful of years that there will be an increasing amount of money available in the fund and not much land left to acquire easements on. She agreed that a comprehensive analysis of how that money should be spent, if reallocated, is the best approach.

1b) Ms. Levy introduced James Zoller, ag ombudsman within the County's Office of Community Sustainability, to discuss his role as liaison to the ag community. She stated that she invited Mr. Zoller because of the Board's recent concerns about members of the ag community having a sounding board when they encounter various problems with the County. The County Executive has given Mr. Zoller the

role to serve as the initial point of contact for complaints. Mr. Zoller can then notify the appropriate staff member in other departments to address the issue.

Mr. Zoller stated that his position is new and developing. In addition to his other duties, his role as ombudsman will focus on keeping communications open between the ag community and the administration. He proposed that he schedule time for an open forum each month prior to the Board meeting for any member of the community to air their concerns, and he recommended that at least one Board member sit in. He also stated that he can make himself available for private meetings with citizens, if requested.

Mr. Bauer noted that at a previous meeting the Board members were advised to talk to the County Council members about amending Section 15.518 if they were not satisfied with Ms. O'Brien's opinion that their current responsibilities don't include fielding grievances. Mr. Bauer stated that he and several other Board members have spoken to Council members, some of whom believe that 15.518 provides this role as written. Ms. O'Brien stated that her advice has not changed.

Mr. Bauer raised questions regarding Section 4.06 in the Board's Rules of Procedure that states, "any landowner requesting an Easement Request shall have the opportunity to provide written or oral testimony in support of the request to the Board at the meeting. The Board may ask questions or request additional information from the landowner during this process." Mr. Bauer believes that this provision grants the Board the authority to hear input from citizens on any matter of concern. Ms. O'Brien stated that this provision is specific to landowners requesting to utilize their rights under the easement.

Mr. Feaga stated that the Board doesn't want to answer questions on farming in general, just concerns regarding easement properties.

Since this discussion was not put on the agenda, staff and the Board decided to put it on the next meeting agenda. Ms. Levy reminded the Board that the County Executive has decided that Mr. Zoller would be the point of contact for grievances.

Ms. Jones asked Mr. Zoller how people would know about his availability. He stated that he would advertise it through Farm Bureau and on relevant web sites.

2) Review and Comment, Commercial Solar Facility, Triple Creek LLC property, HO-89-07-E, 97 +/- acres

Ms. Levy noted that this item is before the Board for informal review at this time because the applicant has not submitted all of the required materials yet, but wanted to get some feedback before they moved too far forward. She read the staff report, focusing on the Board's policy items and the specifics of the proposal that meet the requirements of the policy provisions.

Mr. Feaga asked for confirmation about the current policy regarding commercial solar facilities (CSFs) and the existence of an active IPA. Ms. Levy stated that the applicant can take the proposal through the approval process while the IPA is in place, but construction and/or operation of the CSF cannot begin until after the IPA has matured.

Ms. Levy noted that Mr. Brown contacted her prior to the meeting to inquire about the implications for property taxes and whether SDAT has figured out how it would calculate the area taken up by the CSF. Ms. Levy stated that they have a formula that will separate out the land that is still in ag use, which will retain the ag use assessment, and the rest will be taxed commercially. Mr. Brown shared information about how the cell tower on his farm has been assessed, and raised the concern that it has a significant

impact. He stated that the cell company pays for theirs. Ms. Stonesifer stated Sun East will be paying for the difference on her property.

Mr. Bauer asked about Greg Fox's statement that the CSF would have to be contained to 2% of the land acreage. Ms. Levy stated that the Zoning Regulations don't include CSFs in the section that limits most conditional uses on ag preservation to 2%, so she's not sure what he's referring to. She stated that CSFs were moved into the subsection of Section 106.1 that has no acreage limitation for the use.

Ms. Jones asked the members of Triple Creek LLC about the proposed configuration of the CSF and whether it's taking up too much farmable ground. Her main concern was the narrow distance between the edge of the CSF and the property boundaries. Ms. Stonesifer replied that she will still have plenty of land for pasturing her cattle with the current design. There was a long discussion about the merits of how the CSF is sited relative to other features on the farm.

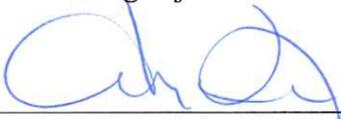
Mr. Wills stated that Sun East is working on the materials for the conditional use application, some of which are necessary for the formal request to the Board. They hope to be ready in time for the next meeting, in November. They've been working with Triple Creek for several months on the design, but had to wait for the revised policy regarding the ability to get approval while the IPA is in place before they complete the application. He told the Board that what is before them now is close to a finished product, but Sun East wanted any input the Board may have that might improve the project.

Mr. Wills talked about ground cover and how the trend in the industry is to go for native grasses and wildflowers to encourage pollinators. He said that Sun East has gotten on board with using ground cover to support pollinators as a best management practice. He said they want to be good neighbors in general and that applies to buffering adjacent properties as well.

Mr. Feaga stated that he thinks Sun East has done a fine job of designing the CSF. Mr. Brown asked how many more properties Sun East is considering. Mr. Wills said they are focused on this one right now.

Ms. Jones said she wanted to get on the record that Triple Creek will still be farming. Ms. Stonesifer confirmed that is the case, showing some of her plans for future expansion of pasture areas.

Ms. Jones moved to adjourn the meeting, which was seconded by Mr. Feaga and carried unanimously. The meeting adjourned at 8:15 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board