

Agricultural Preservation & Commercial Solar Facilities Q&A

Question

Are Commercial Solar Facilities (CSF) allowed on land preserved through the Agricultural Land Preservation Program (ALPP)?

Answer

- Yes. In September 2016, Council Bill 59-2016 (CB59-16) amended the zoning regulations to allow CSF as a conditional use (CU) on ALPP easement properties.
- The intent of the bill was to:
 - help ensure that Howard County's farms remain economically viable into the future through diversification and,
 - promote energy sustainability, conservation and renewable resources and reduce greenhouse gases.

Question

What is the role of the Agricultural Preservation Board (APB) in the CSF approval process?

Answer

CSFs are permitted through the CU process which is administered by the Department of Planning & Zoning and approved by the Hearing Authority. However, as outlined in Section 131.N.52 of the Zoning Regulations, all CSFs on ALPP easement properties require APB Advisory review prior to the pre-submission meeting.

Question

What is the process for receiving APB review?

Answer

Section 131.N.52 of the Zoning Regulations outlines the two-step APB review process, and the documents the petitioner is required to submit to the ALPP Administrator, including a concept plan showing the CSF placement and an analysis of the soil capability outside of the CSF area.

The APB will review the request and determine if the siting aligns with the primary agricultural use of the easement property or supports the farm's economic viability. The APB's feedback will be shared in writing and made available at the pre-submission community meeting. The Department of Planning & Zoning's Technical Staff Report will include an evaluation and recommendation based on this advisory review, which will be attached for reference.

Question

What are the size restrictions for a CSF on ALPP property?

Answer

Per Section 131.N.52 of the Howard County Zoning Regulations, the maximum size of a CSF on ALPP property shall be 16 acres or 20% of the property, whichever is less. The APB evaluates requests before them based on this criteria, as outlined in their policy. However, with Hearing Authority approval, a CSF on ALPP can be increased to a maximum of 34% of the parcel.

Question

What type of easement properties are eligible to apply for CU approval for a CSF?

Answer

Both purchased and dedicated ALPP properties are eligible to apply for a CSF. Agricultural preservation properties in the Maryland Agricultural Land Foundation Program (MALPF) are not eligible.

Question

What are the restrictions on ALPP purchased properties with active Installment Purchase Agreements?

Answer

The County has determined that allowing CSFs on properties with active Installment Purchase Agreements (IPAs) creates significant federal tax risks, both for the County and the holder of the IPA. Accordingly, the County may process petitions for a CSF CU depending on the time remaining under the IPA and provided that construction of the CSF does not occur until the IPA has matured. Notwithstanding the issuance of a CU, the County's final consent to operate a CSF on an ALPP Easement will not occur until the IPA's final payment has been made.

Question

Does my CSF qualify for a Certificate of Public Convenience and Necessity (CPCN) from the Public Services Commission?

Answer

CSF's that generate more than 2MW may qualify for a CPCN. Maryland COMAR requires all CPCN applicants to engage and consult with the county in which any portion of the project is proposed at least 90 days prior to filing an application with the Maryland Public Services Commission (PSC). Please contact the Maryland Public Services Commission for information about the **CPCN process**.