

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2022 Legislative Session, Legislative Day No.: March 8, 2022

Resolution No.: 329

Introduced by: Mr. Callahan, Mr. Divilio, Mr. Leshner, Mr. Pack, Ms. Price

A RESOLUTION TO ADOPT A TEMPORARY MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR LARGE-SCALE SOLAR ENERGY SYSTEMS BEYOND THE SPECIAL EXCEPTION STAGE FOR A PERIOD OF FIVE (5) MONTHS PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AS THE COUNTY COUNCIL MAY CONSIDER ADVISABLE TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE

By the Council: March 8, 2022

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, April 12, 2022 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: 
Susan Moran, Secretary

A RESOLUTION TO ADOPT A TEMPORARY MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR LARGE-SCALE SOLAR ENERGY SYSTEMS BEYOND THE SPECIAL EXCEPTION STAGE FOR A PERIOD OF FIVE (5) MONTHS PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AS THE COUNTY COUNCIL MAY CONSIDER ADVISABLE TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the Talbot County Comprehensive Plan (the “Comprehensive Plan”) includes growth management goals designed and intended to conserve the environmental quality of Talbot County, Maryland (the “County”) through measures which protect natural resources, agricultural, and environmentally sensitive lands; to conserve and preserve the rural character of the County and to control development design in order to promote and enhance the physical appearance and rural character of the County; and

WHEREAS, pursuant to Bill No. 1352, which is now codified as § 190-32.4 of the Talbot County Code (the “County Code”), the County Council of Talbot County (the “County Council”) enacted regulations governing solar energy systems (“SES”) in the County; and

WHEREAS, pursuant to § 190-25.2 of the County Code, large-scale SES are permitted by special exception in all Zoning Districts except for the Resource Conservation (“RC”) Zoning District; and

WHEREAS, pursuant to § 190-25.2 of the County Code, agricultural production and agriculture are permitted uses in all Zoning Districts; and

WHEREAS, Section 192-32.4(D) of the County Code provides for mitigation of large-scale SES in the Agricultural Conservation (“AC”), Western Rural Conservation (“WRC”), or Countryside Preservation (“CP”) Zoning Districts through a recorded Reservation of Development Rights Agreement (“RDRA”) reserving development rights on an equivalent area of land in the AC, WRC, Rural Conservation (“RC”), or CP Zoning Districts; and

WHEREAS, the County is experiencing an increasing demand for the siting and construction of large-scale SES; and

WHEREAS, the Talbot County Planning Commission (the “Planning Commission”) and the County Council are concerned that the mitigation provisions in § 192-32.4(D) of the County Code are insufficient to mitigate the loss of prime agricultural land in the County while the SES is in operation; and

WHEREAS, the County Council desires to revise the existing mitigation requirements in § 192-32.4(D) of the County Code to provide for greater protection of prime agricultural land in the County; and

WHEREAS, on August 14, 2020, the Governor of Maryland’s Task Force on Renewable Energy Development and Siting (the “Task Force”), which includes the Secretaries of the Departments of Agriculture, Commerce, the Environment, Natural Resources, Planning, and

Transportation, issued a Final Report in which it proposed establishing an offset requirement for farmland development similar to the State of Maryland's existing forest offset through the Maryland Agricultural Land Preservation Foundation's ("MALPF") Matching Funds Program; and

WHEREAS, pursuant to § 192-32.4(A)(1)(c) of the County Code, large-scale SES require a special exception, major site plan, building permit, a landscaping and screening plan, a RDRA, and mitigation; and

WHEREAS, the special exception approval process occurs first and can take several months, with the mitigation planning set forth in § 192-32.4(D) of the County Code occurring in conjunction with the site plan review and approval process, which typically begins several months after approval of the special exception; and

WHEREAS, the County Council desires to impose a five (5) month moratorium on the processing of applications for large-scale SES beyond the special exception stage to allow the County Council, the Planning Commission, and County staff to draft legislation amending § 190-32.4(D) of the County Code for the purpose of establishing an offset requirement for large-scale SES on agricultural land that will better achieve the goals expressed in the Comprehensive Plan than the existing mitigation requirements before additional development of large-scale SES occurs that may be contrary or inimical to the goals therein;

NOW, THEREFORE, BE IT RESOLVED by the County Council for Talbot County, Maryland, that:

1. Moratorium established. A temporary moratorium on the processing of applications for large-scale SES beyond the special exception stage shall be and is hereby established for a period of five (5) months from and after the adoption of this Resolution.

2. Recommendations and legislation. This temporary moratorium is established to allow sufficient time within which County staff can prepare recommendations for review by the Planning Commission; the Planning Commission can prepare recommendations for the County Council; and the County Council can consider and enact legislation:

- (a) to best promote the policies articulated in the Comprehensive Plan;
- (b) to consider mitigation in the form of an offset requirement for large-scale SES on agricultural land in the County;
- (c) to obtain such expert advice and assistance as necessary; and
- (d) to consider such other related matters as the County Council, the Planning Commission, and County staff deem appropriate.

3. New and pending applications. This moratorium is a short-term suspension of administrative review beyond the special exception stage while the County prepares and considers recommendations and legislation regarding an offset requirement for large-scale SES on agricultural land.

- (a) County departments shall, within the framework of their other responsibilities, continue to accept applications (*e.g.*, assign docket numbers and other administrative aspects associated with the filing of applications for approval of large-scale SES), subject to provisions as may be revised during the moratorium.
- (b) County departments shall place on hold any pending requests for review or permit issuance for large-scale SES that have not received final approval as of the effective date of this Resolution. Such projects that have received final approval as of the effective date of this Resolution are not subject to this temporary moratorium and may continue.
- (c) All permits or approvals issued after this temporary moratorium expires shall comply with legal requirements in effect at that time, including, without limitation, any new requirements imposed by legislation adopted during the pendency of the moratorium, which may require the applicant to provide an offset for large-scale SES on agricultural land.

4. Effective date. This temporary moratorium shall be effective upon adoption of this Resolution.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. ____ having been published, a public hearing was held on Tuesday, _____, 2022 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the second time:

Adopted:

By Order: _____
Secretary

Callahan -

Divilio -

Leshner -

Price -

Pack -

EFFECTIVE: