

Subgroup Report of the Environmental and Solar Farm Solar Workgroup Members

Preamble

We submit this report with heavy hearts, but also with appreciation. Its finalization was delayed while some of us watched the news as an unfettered mob incited by some of our country's highest leaders violate our nation's Capitol, vandalizing, causing injury and a death, threatening the safety of those who work to govern our country and those who work to protect them, and disgracing our country before the world. We therefore appreciate the fact that while the members of this Workgroup came to this task with strong beliefs and different perspectives, the group carried out its work over five meetings with civil discussion, reasoned debate, mutual respect, and openness to transparency and public input. The products were several areas of agreement, communicated in our Joint Recommendations report, even while we continue to disagree on other issues as reflected in the two separate reports. So, we appreciate that the County Council gave us the opportunity to participate in this exercise in democratic process, which reaffirms our belief in that process. We look forward to continued participation as this and other issues are deliberated in our county and our country.

Introduction

This section of the Workgroup report was written by the Environmental and Solar members of the Workgroup: Al Bartlett (Sierra Club), Doug Boucher (Poolesville Green), Leslie Elder (Coalition for Community Solar Access) and Franny Yuhas (TurningPoint Energy). We were pleased to serve on the Workgroup over the past two months and are especially gratified that it was able to agree on six joint recommendations to the County Council; additional context is included in Appendix B to provide our understanding of the rationale and intention of the particular amendment or recommendation, to assist the Council in considering them.

While we believe that the draft ZTA is worthy of passage in its current form, the Workgroup's recommendations - some of which would modify the ZTA text, while others would require the passage of separate legislation - respond to issues raised by various stakeholders or the public. These recommendations will clarify and define the process by which community solar is implemented in the Agricultural Reserve of Montgomery County.

Although the Workgroup came together with very different opinions on how to best achieve Solar Siting in the AR zone, the Workgroup passed six amendments, five of them unanimously. Details on each passed amendment are included on the joint report provided separately to the Council. The environmental/solar stakeholder group gained traction on several other issues, and some of these, included in this report, are recommended for the Council to consider.

Staff support, which we very much appreciated, was provided by Laurie Edberg of Councilmember Katz's office, Tom Heyboer of Councilmember Riemer's office, and Jeffrey Zyontz, Council legal staff.

Between November 17 and December 29, 2020, the Workgroup conducted a total of five recorded and publicly viewed work sessions on Zoom regarding ZTA 20-01. Workgroup members provided relevant background documents, which were compiled in a publicly accessible online site.

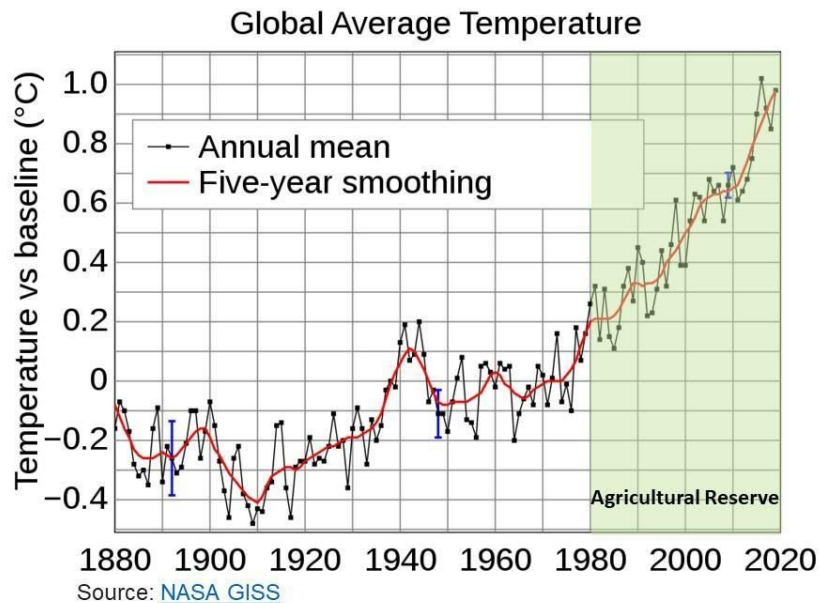
Recommendations for potential amendments were provided by Workgroup members themselves, elements of county government including the Office of Agriculture, and the public. After each open Workgroup session, the public dialogue (“Chat”) was examined for additional potential amendment recommendations.

In general, proposals and recommendations focused on responding to concerns of one or more constituencies and the public, clarifying the intent of the ZTA, strengthening protections for agricultural and environmental resources, or maximizing the balance of limited solar development and the agricultural character of the Agricultural Reserve.

Of note, while the Workgroup was specifically asked to consider potential amendments, the group agreed that in some cases, achieving these intentions would require complementary legislation in areas - such as use of revenue - that could not be implemented through zoning legislation alone.

Climate Change is the driving issue: The context of the ZTA, and of the Council’s efforts and the establishment of the Workgroup, is the recognition of the urgency of the global climate crisis. This crisis, unforeseen when the Reserve was established in 1980, has grown in urgency over the past four decades and presents a clear threat to our County – including its agriculture – as well as to our planet as a whole. The NASA graph below, showing the increase in global temperatures over the past century and a half, makes it clear that most global warming has taken place since the Agricultural Reserve was created.

Global temperatures have risen almost 1° Celsius since the Ag Reserve was established 40 years ago



The founders of the Reserve did not, and could not, have anticipated this crisis when they established it. Forty years later, we have no such excuse. The effects of climate change are already being felt by all county residents, including our farmers – growing seasons have measurably changed, average temperatures are warmer, rainfall patterns have changed and are more intense. We now face an urgent need to act, responding to these realities and the county’s own greenhouse gas reduction goals and recognized need to transition to clean renewable energy.

Additional proposed amendments/recommendations

The following proposals received the support of all four of the environment and solar industry representatives. While they did not get support from the other four Workgroup members, resulting in tie votes, we still believe them to be worthy of consideration by the Council, as additional concrete strategies to further strengthen the positive impact of the ZTA, especially in terms of building beneficial interactions between solar and agriculture. The full text of one of these amendments is given in Appendix A at the end of this report.

Require that solar projects not just be capable of positive agricultural activities, but actually implement these:

This amendment to the “Necessary Findings” required in the Site Plan Review was actually proposed by a resident of the Agricultural Reserve, and is also being proposed by Councilmember Riemer, the ZTA’s sponsor. Specifically, section 7.3.4.5.d. of the amended text (beginning on line 118 of the present Committee draft) will read:

E. Necessary Findings

5. For property zoned AR proposed as a Solar Collection System:

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d. must provide evidence that the area under the solar facility will [~~satisfy~~] be actively used for farming or agricultural purposes by satisfying one of the following requirements:

- i.* designated pollinator-friendly under the Maryland Pollinator-Friendly Designation Program;
- ii.* planted managed, maintained, and used for grazing farm animals; or,
- iii.* planted, managed, maintained, and used for any other agrivoltaic plant material.

There was general alignment over this amendment, which requires not just “suitability” but active management for agrivoltaic crops and solar grazing. However, it failed due to not being seconded. This was not because of the actual substance of the amendment, but rather because it became linked to the heated debate about Limited vs. Conditional Use (see discussion below). Additionally, one stakeholder felt that it gave too much encouragement for pollinator-friendly vegetation, described by them as “you just plant a few flowers.”

We feel that these criticisms are incorrect, but more importantly, they are irrelevant to the actual content of the amendment. It is the recommendation of this group to include this amendment,

which we believe would benefit the intent of the ZTA and address some of the issues raised during the Farm Solar Workgroup. (discussed 12/2 1.36.55, 1.47.07, 12/10 15.57, 12/10 1.01.19, 12/10 1.01.50, 12/10 1.45.47)

ZTA phased acreage and agrivoltaic pilot program:

We believe that the best way to ensure that solar will remain accessory to farming in the AR is through the 1,800-acre cap . However, in response to concerns of other stakeholders, this group worked with other members of the Workgroup to create a phased acreage and agrivoltaic pilot program. This amendment and associated recommendations were designed to ensure that solar did not supplant agriculture and rather worked to find an innovative solution grounded in local control. This would allow Montgomery County to manage the implementation of solar projects at a measured pace within the County while supporting the statewide community solar pilot program and aggregated net metering program through learning how to combine additional forms of productive agriculture with solar arrays. We regret that it was not adopted. (The full content of this recommendation is included as Annex A.) (discussed 12/2 1.21.40, 12/2 1.32.32, 1.35.35, 12/10 21.54, 12/10 59.51

Payment in lieu of Taxes (PILOT):

This proposal was originally suggested by the Office of Agriculture, based on the system implemented in Queen Anne’s County.

A standard element of lease contracts with landowners for installing solar arrays, is that the developer will pay all the increase in property taxes resulting from the increased assessment of the land’s value. Payment in lieu of taxes simply has the developer pay the county directly, rather than compensating the landowner for the difference in tax obligation and then the landowner paying the County each year.

Such a system would simplify administration, potentially benefit the County by receiving revenue earlier, and increase the certainty of the revenue generated for the County. The revenue could then be used (perhaps combined with other County revenue) to support planned projects or other County initiatives. We recommend that the County Council explore implementing Payment in Lieu of Taxes for solar projects in Montgomery County. (discussed 12/29 2.22.04)

Pesticides in pollinator-friendly vegetation:

This amendment would have limited pesticide use in pollinator-friendly vegetation to herbicides only, and for only two purposes:

- a) controlling state-defined noxious weeds, such as Johnson grass and thistles, which landowners are required to eliminate by state law, and
- b) controlling plants that are both non-native and invasive. Insecticides and fungicides would not be allowed. Note that herbicide use to control non-native invasive species would not be required, but simply permitted.

This amendment was suggested by the county Audubon Society chapter and Clean Water Action, and we regret that it was not adopted. (discussed 12/2 1.40.32, 12/10 1.01.10)

Increase accessory solar capacity to 200% of on-site energy use:

This is an increase from the current 120% limitation in the current ZTA. This would give the agricultural industry the possibility of greater capacity to directly provide solar-generated electricity for their own operations as electrification expands. (discussed 12/10 9.38)

Areas of Opposition (and why)

Conditional Use vs. Limited Use: For the following reasons, we strongly oppose the proposal to require development of solar projects of 2MW (AC) and less in the Agricultural Reserve to be a Conditional Use, rather than a Limited Use under the ZTA as written. Reasons:

- The ZTA as amended already establishes the specific conditions required for solar projects in the Ag Reserve – Previous amendments made by the PHED Committee itself, and the further recommendations agreed upon by the Farm Solar Workgroup (see “Joint Recommendations”) have established a substantial set of environmental and agricultural protections, some of which exceed those applied to other projects in the county. They also establish an intentional positive and interactive relationship between these limited size solar projects and farming. These conditions apply to all proposed projects; Conditional Use review is only appropriate where every proposed action is unique and requires individual assessment, making each project what was formerly designated as a “Special Exception.” We do not believe this to be the intention of the Council, and we do not recommend this.
- The Conditional Use process subjugates the role of the County’s Planning Department – Under the present “Limited Use” approach of the ZTA, the planning Board is required to apply all the conditionality included in the ZTA Site Plan review criteria, as well as all other mandatory criteria (state and county environmental protections, engineering and safety assessments, etc.), and make an objective determination of compliance with those conditions. The Planning Board is also tasked with assessing consistency of all proposals with relevant aspects of the county’s Master Plans.

Under Conditional Use, the Planning Department is still required to carry out its review of project applications. However, rather than ruling on proposed projects based on the Site Plan review, the Planning Board’s role is instead to pass on the project application to the Office of Zoning and Administrative Hearings, requiring the additional time, plan and drawing submissions, and process described below. The approval decision resides with the Hearing Examiner, not the Planning Dept. This approval decision may go beyond the conditions specified in zoning, to subjective factors as perceived by the Hearing Examiner. Approval of a project is open to appeal by any potentially interested party, resulting in further delay and uncertainty. The Planning Dept. does not play a role in these further steps in the process.

- The Master Plan does NOT require projects to be subject to Conditional Use – Despite the assertions of the proponents of Conditional Use that the Master Plan for Preservation of Agriculture and Rural Open Space is law, that zoning must be subjugate to that law, and therefore any use other than agriculture in the AR must be made Conditional, this is not true. The Master Plan is not law (ref.: Maryland Dept. of Planning, “Comprehensive Plans;” <https://planning.maryland.gov/Pages/OurWork/complans/requirements.aspx>). However,

under county code, Site Plan approval by the Planning Dept. requires that a proposed project "*substantially conforms with the recommendations of the applicable Master Plan and any guidelines approved by the Planning Board that implement the applicable plan.*"

In fact, in their official assessments of February, 2020, both Planning Board staff and ultimately the Planning Board itself, both found that "*the limited area recommended for inclusion for potential development of Solar Collection Systems in the AR zone (1,800 acres or approximately two percent of the total 93,000 acres of the Agricultural Reserve) represents a small enough area of the Agricultural Reserve to not significantly compromise the Master Plan for Preservation of Agricultural and Rural Open Space's designation of farm land and agriculture as the preferred land use in the Agricultural Reserve.*" The Planning Board also supported conditions to "*reduce the impacts of solar collection as a principal use in the AR zone,*" including "*requirements that the ground underneath the panels have pollinator-friendly plants or is suitable for grazing or crop production, that soil and tree removal is minimized, and that a limitation be placed on the amount of agricultural land that can be developed as a Solar Collection System.*" Notably, all these requirements are now incorporated in ZTA 20.01 as amended.

Notably also, the Planning staff assessment memo specifically refers to ZTA 20.01 as providing "*limited use standards for solar as a principal use in the Agricultural Reserve zone.*"

(The proponents of Conditional Use zoning under ZTA 20.01 have publicly stated that they are unhappy that the Planning Board took these positions supporting the ZTA. We therefore note that the proposal to go from Limited Use to Conditional Use is effectively a mechanism to take authority away from the Planning Board, whose opinion those proponents don't support.)

- Conditional Use review adds substantial time, administrative and technical burden, cost, and uncertainty to the project review process - This added burden, and the associated uncertainty (since uncertainty is the bane of successful commerce), have derailed many projects including agriculture related projects. The actual steps in the complex and intensive review and approval process that Community Solar projects already have to go through, and the added burden of the Conditional Use process, are detailed here:

The Site Development Plan (SDP) process, which is required for development of a solar project as Limited Use, is already a 24-30 month permitting process. The SDP process is quite rigorous and stringent requirements are placed on the applicant's project as dictated by the applicable and relevant County codes and guidelines of the various departments that have authority to review. Steps in the Community Solar and SDP development process include:

- MD Public Service Commission (PSC)
 - Submit filing to PSC for project to be placed on the "PSC Approved Project List"
 - The PSC Approved Project List is sent to the Electric Distribution Company (EDC)
 - Interconnection Application
 - Once confirmation is received that the project has been approved (deemed eligible to participate in the Community Solar program), we can submit an interconnection application request to EDC

- Await receipt of PSC Conditional Approval to interconnect and explanation of required facility upgrades
- Community Solar Energy Generating System (CSEGS) Project Program Application
 - Submit application to receive program capacity allocation to utility
 - Receive confirmation (or waitlist or denial) of program capacity allocation
- Site due diligence tasks/site investigation
 - If receive program capacity, begin studies (Phase I Environmental Assessment, wetlands review, geotechnical characteristics, etc.).
- Discretionary Permitting Process (DPS)
 - MNCPPC – timeframe for [Site Development Plan](#) review and approval is dependent upon site complexity, County and State staff review schedule
 - Mandatory Community Meeting
 - Submit Site Development Plan for review and approval including:
 - NRI/FSD Forest Conservation Plan
 - Landscape Plan
 - Others as applicable to specific site
 - [Design Review Committee](#) (must take place w/in 3 weeks of SDP application being accepted)
 - Planning Board Hearing scheduled/held (this Hearing must take place within 120 days of intake acceptance)
 - If SDP approved
 - Resolution is mailed
 - 30-day appeal period
 - Begin Certified Site Plan review & approval process (4-5 month process)
 - Once CSP is signed can apply for construction permits
 - Dept. of Permitting Services requirements
 - Stormwater/Erosion & Sediment Control
 - Roadway entrance/Public Right of Way
 - Others as applicable to specific site
 - Approvals dependent of receiving signed CSP
- Construction permit process will follow Certified Site Plan approval and approval of the above DPS plan reviews (allow 2-3 months)
 - Submit application and post related bonds to ensure performance of work is in compliance w/ CSP

Generally, with these steps it will be at least two years before a project is actually built. Although according to Community Solar program rules projects have to achieve commercial operation within 24 months, many community solar projects have already had to request a year extension (which costs \$100,000) due to delays in permitting.

The same steps, and more, would be required under Conditional Use, except that under Limited Use the applicant has fairly high confidence that before starting the process the project will likely be approved if the application and project design are compliant with all applicable requirements, guidelines as defined by zoning and other requirements.

That is not the case for Conditional Use, where the project will be reviewed on a case-by-case basis only after a significant amount of additional application preparation work has been completed. The [Conditional Use](#) process requires a hearing prior to actually submitting the SDP for review but requires that the [components listed](#) under SDP and DPS be submitted, reviewed and approved to accompany the Conditional Use application. Conditional Use applications may take anywhere from 4-6 months from the time of intake acceptance - after completion of the SDP and DPS components - to be approved or denied. The applicant is assigned a hearing date which requires significant investment for applicant to prepare a compelling case as to why (in this case) solar should be allowed on a particular site. So, the Conditional Use process adds several months to project approval (which the state cannot afford more delays in getting projects approved to comply w/ CSEGS PSC program rules) and requires a significant amount of money in preparation with NO certainty or even a high confidence level that the project will be approved. And if approved, the decision can be appealed for any reason, which can add another 6-24 months and mounting legal fees.

It has been brought to our attention by a Montgomery County resident who was listening in to each of the Workgroup meetings, that one sector of the agricultural economy was actually “run out of the county” due to Conditional Use (formerly Special Exception) costs: a local meat processor was used as an example, with the result that since Gladhill Meats closed, there have been no processors for “local meat.” Montgomery County farmers now send live animals to Frederick or other counties in Maryland and Pennsylvania because of the overly restrictive rules. Instead of encouraging all agriculture related business, the Conditional Use process discourages it.

- Our M-NCPPC partner county does not require conditional use or Special Exceptions for solar on agricultural land – Prince George’s County has a substantially similar balance between urban, suburban, and agricultural zones and has a similar amount of farmland (about 60,000 acres). All of the ground-mounted Community Solar projects in the Maryland Pepco service area are located in Prince George’s County, although many subscribers to these projects live in Montgomery County. As confirmed by Derick Berlage, Chief of Countywide Planning in Prince George’s County, the M-NCPPC Mandatory Referral review is the only planning approval process required for solar facilities in that county. (The county also reports that solar development on agricultural land there has had no effect on sale or rental cost of farmland.)

Soil class restriction:

This “poison pill” amendment would render the entire ZTA useless, because it would reduce the number of projects that could be built in the Reserve to single digits. This is demonstrated, in much detail, in the analysis presented to the Council by the MDV-SEIA/CCSA, and by the county’s own analysis, and further explained (in relation to the one-project-per-parcel limitation imposed by state law) in the analysis by Doug Boucher. All of these analyses were posted in the Google Drive for the Stakeholder Workgroup and also sent separately to the County Council, and no argument was even presented that these analyses were incorrect.

Furthermore, the arguments in favor of excluding capability class 2 and 3 soils were based on the mistaken impression that they make up the best farmland in the county. In fact, the USDA

definition of these classes is that class 2 soils have moderate limitations for crop production, and class 3 soils have severe limitations. Only category 1 soils – which are already excluded from use by the ZTA’s current text – can be reasonably described as the “best” soils for agriculture.

Class 2 and 3 soils actually make up 45% and 34% of the county’s land, respectively. The exclusion of class 2 soils from limited solar projects to “protect” them from development, or to prevent a feared increase in farmland rental rates, totally ignores the fact that there is an 1800-acre cap on solar projects. This is far less than the 131,000 acres of class 2 soils in the county, and only 2% of the Agricultural Reserve. The experience of other Maryland counties that have allowed solar on class 2 soils (e.g. Prince George’s) is that they have seen no significant impact of solar on rental rates.

Thus, the soil exclusion amendment is based on false premises and would have had the effect of rendering the ZTA totally unworkable. We strongly recommend that it continue to be rejected.

Preferential subscriptions for Montgomery County Residents, and/or exclusion of non-county residents, from Community Solar (discussed on 12/2- 45.20, 12/10 26.38, 12/10 1.31):

It is the recommendation of this group to oppose this proposal, for several reasons.

- It is not clear that the county has the legislative authority to impose such a restriction: the state’s CSEGS program is structured and implemented by utility service region, and the management and billing process is established by individual utilities. So it is not actually feasible, nor in accordance with COMAR 20.62, to try to mandate separating one part of a utility’s service area from another.
- After careful consideration, it is clear that meeting this programmatic requirement would violate the core principle of this Workgroup, and of the CSEGS program itself, of providing affordable renewable energy to Montgomery County residents. Even voluntary restriction of subscriber recruitment to Montgomery County residents by CSEGS Subscriber Organizations would result in substantial reduction of the potential subscriber pool in the Pepco area, where most county residents live. Based on modeling from community solar industry leaders who do customer acquisition, this would add approximately \$50,000 per MW to each project, or a total of \$4.5 million dollars in costs to the ZTA for 1,800 acres. This will result in increased cost of electricity produced by each project. We strongly feel that this violates the core principle of providing cost savings to consumers – especially low- and moderate-income consumers - through Community Solar.
- Also, the present reality is that all the ground-mounted Community Solar projects in the Pepco service area are in Prince George’s County, but many subscribers are in Montgomery County. It seems confrontational to say that our residents can take up solar from projects in Prince George’s, but Prince George’s residents can’t subscribe to projects in Montgomery County. However, there IS more than enough potential Montgomery County subscriber uptake capacity in both the Pepco and Potomac Edison service areas to use all the solar energy generated under the ZTA, and the county could promote subscription through public communication.

Conclusion

We were pleased to work with our colleagues in the Workgroup, and happy with our ability to disagree amiably on some issues and nevertheless reach consensus on others. We believe

that the final result of our process was quite positive and are pleased to support the Joint Recommendations report to the Council.

We hope that the Council will also consider the amendments discussed in the “Additional proposed amendments/recommendations” section, above. We would note that in several cases their failure to pass was not due to their actual content, but rather to their being linked to other controversial issues (e.g. Conditional Use). They include amendments suggested by other groups (e.g. Office of Agriculture, Audubon Society, Clean Water Action, Dan Savino of Poolesville Green) and are well worthy of being considered on their own merits.

Appendix A – Detailed text of Phased Acreage/Agrivoltaic Pilot Program amendment (recommended for consideration)

Acreage Phased and Agrivoltaic Pilot Programs - DEFEATED BY 4-4 TIE VOTE

The 1,800 acres will be divided into two separate but parallel programs:

- Acreage Phased Program Projects built on class III soils will receive personal property reduction of 75% and real property taxes will remain at “agriculture” and not “commercial” to both incentivize development on non-prime soils and help ease development challenges with interconnection.
- The first program will be an acreage phased program of 900 total acres to be used for community solar or AgNEM projects and will be subjected to the provisions currently proposed in the ZTA 20-01, with the addition of the Savino amendment. The county should be limited to permitting no more than 50MW of community solar or AgNEM facilities per year.
- The second will be 900 total acres reserved for solar facilities for an agrivoltaic pilot program. Community solar and AgNEM projects will both qualify for this pilot program. The county shall not permit more than 75MW of agrivoltaic projects per year until the 900 acres are achieved. Any solar facility larger than 2MW(ac) will be prohibited from participation and shall not be granted access to the county level pilot or the acreage phased programs.
- Agrivoltaic Pilot Program:
 - Agrivoltaics shall be defined by using the NREL definitions and agrivoltaic systems can qualify for one of the following definitions to be admitted into the pilot program:
 1. **Vegetation-centric** approaches to solar energy developments and vegetation are characterized by actions that serve to maximize biomass production activities and minimize changes to existing vegetation management activities, while also incorporating solar energy production activities;
 2. **Energy-centric** approaches to solar energy developments and vegetation are characterized by actions that serve to maximize solar energy output, minimize changes to solar development standard practices, while also promoting vegetation growth under and around the solar installation; or
 3. **Integrated Vegetation-Energy-Centric (or “Hybrid”)** approaches that seek to integrate both energy output and vegetation production goals. These types of approaches are characterized by incorporating both vegetation and energy priorities into system designs and could potentially result in lower vegetation productivity or energy output than could be achieved without co-location, but

provide additional benefits, including diversity of revenue streams, that make co-location activities desirable.

- Limited to the same rules and regulations under COMAR, AgNEM, and all other requirements of the ZTA 20-01;
 - Solar developers must work with a farmer from Montgomery County, Maryland agreed upon by the landowner unless otherwise stipulated by the agreed upon contract;
 - The Montgomery County, MD Farmer and Solar Developers will submit a basic farm plan, supported by the County Office of Agriculture or the County Farm Bureau, with the developer's required permits (in accordance to the provisions of the ZTA 20-01 and all regulations required by the state for both AgNEM and the Community Solar Pilot Program to qualify for the Montgomery County tax incentives for this agrivoltaic pilot program;
 - The agrivoltaic system will not interfere with the continued use of the land beneath the canopy for agricultural purposes;
 - The agrivoltaic system is a raised structure allowing for continuous growth of crops underneath the solar photovoltaic modules, with height enough for labor and/or machinery as it relates to tilling, cultivating, soil amendments, harvesting, and grazing animals, etc.;
 - The County's Office of Agriculture, County's Farm Bureau and other stakeholders will develop and maintains a list of pre-approved crops for agrivoltaics based on scientifically researched PAR values, or average shading for project selection;
 - If the project qualifies under the agrivoltaic pilot program, the project will qualify for the following:
 1. Real property taxes will remain at "agriculture" and not "commercial";
 2. Personal property taxes will be reduced by 75%;
 3. Qualify for the Community Solar grant funding administered by MEA;
 4. Eligible for agricultural research grants from the University of Maryland;
 5. Qualify for federal clean energy incentive grant programs; and
 6. Qualify for MD RPS.
 - Management and oversight of qualification of agrivoltaic applications by the Montgomery County Office of Agriculture; and
 - Farmers will be allowed to participate in the agrivoltaic community solar program as subscribers and the AgNEM program as offtakers.
- Program Evaluation:
 - Acreage Phased Program: No later than five years after the implementation of the ZTA 20-01, Montgomery County is directed to do a comprehensive economic analysis of the ZTA- evaluating any economic benefits or consequences solar installations have on the agricultural community, county residents, and any earmarked expenditures, and tax incentives passed in relation to the ZTA 20-01. This report should be provided to the MD PSC to help evaluate the effectiveness of the COMAR pilot program and used to inform the development of the Community Solar permanent program and AgNEM deployment.
 - Agrivoltaic Pilot Program: No later than six years after the implementation of the ZTA 20-01, Montgomery County is directed to start the evaluation of the agrivoltaic pilot program and share the results with the MD PSC and MEA to help inform the AgNEM

and Community Solar Pilot Programs. This study should evaluate successful execution of farmer and solar developer plans, economic analysis of incentives designed to make these programs financially feasible, any economic benefits or consequences solar installations have on the agricultural community, county residents, earmarked expenditures passed in relation to the pilot, and others. After the completion of the study, the county and interested stakeholders can evaluate the effectiveness of the program and choose to keep the agrivoltaic pilot program or release the remaining acres to the other acreage bucket.

- Tax resources from acreage phased program Community Solar and AgNEM developments should be earmarked to support farming related services to include but not limited to rent relief, ag reserve funds, or any other agriculture related resource determined by the farming community and the Office of Agriculture.
- Tax resources from agrivoltaic Community Solar and AgNem developments should be earmarked for the Office of Agriculture, the Montgomery County Farm Bureau, and Montgomery County Council for program implementation.

Appendix B – Explanatory information for jointly passed amendments/recommendations

- **UNANIMOUSLY PASSED:** Add COMAR 20.62 to line 12 in the ZTA.
(The intention of this recommendation is to respond to public and stakeholder concern that the term “Community Solar” as used in the ZTA is not by itself limited to the parameters of the state’s pilot program; the references already provided in ZTA lines 11-12 [Maryland Code §7-306 and COMAR 20.50.10] relate to the state’s Net Metering policy and the definition of Aggregate Net Metering projects, but do not include reference to the Maryland Code defining the “Community Solar Energy Generating Systems” pilot program. The recommended additional citation specifies that Code.)
- **UNANIMOUSLY PASSED** Make a strong recommendation to ensure the PSC language is removed.
- **UNANIMOUSLY PASSED:** Add language with strong recommendations from Montgomery County to only allow for solar projects to be sited in the Agricultural Reserve.
(These two recommendations reflect agreement with the PHED Committee’s decision to remove from the ZTA the language in lines 97-100 that refers to the Public Services Commission’s authority to approve solar projects larger than 2 MW that might be proposed for our county. The language itself is not relevant to the accessory, Community Solar, or Aggregate Net Metered projects that are the subject of the ZTA. The recommendations reflect concern that there had been discussion of restoring this language. More importantly, they reflect recognition that the PSC is legislatively required to consider local jurisdictions’ zoning and land use policies and preferences in making decisions about siting of larger projects. Based on this recognition, the group strongly felt it is inappropriate for the county to simply give blanket acknowledgement of PSC preemptive authority. Instead, we should clearly state our position on such larger projects, that they should be responsive to local and municipal zoning requirements, in order to protect the state’s agricultural asset and ensure the County will exercise their

right, as an interested party, in any proceedings for projects larger than 2MW. This is in accordance with the [Governor's Task Force on Renewable Energy Development and Siting Report of August 2020](#) and SB741.)

- UNANIMOUSLY PASSED: Solar developers will be required to report all acres to be used for the solar facility, including any acres to adhere to the provisions required in the ZTA for setbacks, etc., in the site development plan required for permitting projects. This report shall include not only the acres under the panel, but shall include all acres included in the fenced or shrubbed area.

(This amendment would clarify how the acreage of any solar project would be counted against total acreage allowed by the ZTA.)

- UNANIMOUSLY PASSED: Direct the Office of Agriculture to work with the Planning Board in the application approval process for any solar facilities proposed under the ZTA.
(The intention of this amendment is to establish a formal role for the Office of Agriculture in the application review process for solar projects in the Agricultural Reserve.)

- PASSED 5 to 3: (The explanatory information below refers to the part of this recommendation that pertains to giving preference to specific groups)

Preference will be given to Black and Hispanic farmers in allocating these tax resources.

(Justification:

- Black and Latinx residents are severely underrepresented in the agricultural community of the County. Data from the Census Bureau's 2013-2018 ACS Survey and the USDA's Census of Agriculture 2017 show that:
 - Black residents make up 18% of the county's population, but only 12% of the population of the Agricultural Reserve. They are only 4% of the county's farmers and have only 1% of the farmland.
 - Latinx residents make up 20% of the county's population, but only 10% of the population of the Agricultural Reserve. They are only 5% of the county's farmers and have only 2% of the farmland.
 - Farms owned by White farmers in the county average 124 acres. Those owned by Latinx farmers average only 42 acres, and those owned by Black farmers average just 18 ½ acres.)