

Driving Farmers Off the Land

Misplacement of “Community Solar” Development

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History:

In 1980, Montgomery County Carefully Protected an Agricultural Reserve to Ensure Survival of Robust Food-Producing Farms Through Zoning and Other Measures Making Low Price Farmland Available to Existing and New Farmers.

As urban-suburban development threatened Montgomery County’s farmland 40 years ago, County visionaries carefully protected an Agricultural Reserve to guarantee survival of food-producing farms through zoning and other measures to ensure low price farmland remains available to existing and new farmers. Those nationally acclaimed measures turned the tide for continued farming in the face of a rapidly urbanizing population. Strict protections produced our still-fragile farm economy of 560 farms, attracting new diverse entrants and persisting even as 2,000 acres of farmland and ranches disappear each day across the United States.

Local Food Supply:

Agricultural Reserve Farms Create a Food Reservoir to Combat Increasing Food Insecurity

The global pandemic has highlighted persistent food insecurity among many County residents, especially those with low incomes or vulnerable jobs. Four decades after the Reserve’s creation, the adverse health effects of limited access to nourishing food (especially fresh fruits and vegetables) and nutrition-deficient diets are understood to be key components of a national health crisis. Agricultural Reserve-produced foods offer an accessible, low cost food supply to counter widespread local food insecurity, improve health outcomes for County residents and support a growing farm-to-table economy.

Driving Farmers Off Reserved Farm Land:

Proposed Zoning Amendment (ZTA 20:01) Undercuts Sustainment of the County’s Agricultural Economy and Will Drive Farmers Off Reserved Farm Land.

Given the centrality of low cost land access to continued viable farming in the Agricultural Reserve, the intrusion of a politically-favored, non-agricultural industry – Big Solar, with its land price escalations -- means that the proposed zoning amendment is not just bad, but fatal to sustained commercial farming and food production in the Reserve. The positive results of 40

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years of careful planning and implementation – a viable farming and food production economy in a highly urbanized area - are jeopardized by this ill-conceived industrial intrusion.

Misplacement of “Community Solar” Development:

Allowing 3-Square Miles of Industrial Solar in the Agricultural Reserve *Impedes* Rather Than Advances Development of Renewable Energy for County Residents at Affordable, Competitively Negotiated Prices.

The Solar Industry says 3-Square Miles of “Community Solar” in the Agricultural Reserve is essential to reach the County’s climate change goals through solar generation and residents’ access to solar energy at affordable prices. In support, they pose four Myths squarely contradicted by the facts:

MYTH 1

Only “Community Solar” development in the Agricultural Reserve will enable the County to do its “share” of renewable energy generation to reach its climate change goals.

In fact, renewable energy generation supplying the County’s regional power grid is primarily a regional not local resource. Increased generation of renewable energy is driven by increasing demand for it across the grid, including prominently from densely populated areas. A heavily urbanized County has more meaningful, cost-saving alternatives than industrial solar in the Reserve to speed consumers’ transition to renewable energy. The County is aggressively pursuing those alternatives, including a nationally-proven Community Choice Energy Program allowing Montgomery County consumers to aggregate energy demand at affordable prices and speed the transition to renewable energy.

MYTH 2

Locations outside the Reserve are limited and too expensive for solar development projects.

In fact, substantial solar development is occurring outside the Agricultural Reserve, led in part by County Government. If properly sited and incentivized, solar generation development by private and public sponsors can expand in suitable areas where it will not harm farming.

MYTH 3

The proposed zoning amendment will ensure County residents can access solar energy at an affordable or discounted price under Maryland’s Community Solar Program.

In fact, industrial solar development in the Agricultural Reserve would perpetuate Big Solar’s excessive consumer energy prices that discourage renewable energy consumption. The proposed zoning amendment does not mandate “Community Solar” and, even if it did, will not provide County residents the promised cost savings, much less the superior cost benefits of competitively-sourced renewable energy available under a County Community Choice Energy Program.

MYTH 4

The proposed zoning amendment’s incursion of industrial solar in the Agricultural Reserve is the best and necessary alternative to spur the County’s transition to renewable energy sources.

In fact, the proposed zoning amendment will deter and slow solar development in other parts of the County as Big Solar rushes to industrial development on purposefully low price farmland in the Agricultural Reserve. Lacking that windfall if the zoning amendment is denied, solar developers will focus their projects in other locations that do not impede food production in the Reserve. The County can pursue additional solar generation projects on “brownfield” land and impervious surfaces that produce real cost savings, an approach called “Smart Solar.” The County can also pursue competitively-sourced renewable energy at affordable prices under a County Community Choice Energy Program to speed our transition to renewable energy.

CONCLUSIONS:

Montgomery County’s Agricultural Reserve is an important source of food, fiber, and clean water and clean air to our County and greater D.C. region – and we can expand this role in order to meet the challenges of food insecurity and the climate crisis. To respond to the crisis of food insecurity and hunger worsened by the COVID-19 pandemic, and the ongoing climate crisis, our County must expand the production of local table crops and food products from our Ag Reserve – including via Regenerative Agriculture methods that sequester carbon in the soil.

This expanded food production and carbon sequestration role depends upon continued, unequivocal support for the Agricultural Reserve on the part of County leaders, including County Councilmembers. Supporting this stepped-up role means rejecting proposals that would insert non-agricultural land uses into the Agricultural Reserve. If allowed entrance into our Reserve, a non-agricultural industry such as industrial solar will escalate land rents way beyond what farmers can pay. They will destabilize and undermine the County’s farming economy at the precise moment when we need it to prosper and expand. Let’s not let this happen on our watch.

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Action in the Public Interest Urgently Needed:

Montgomery County Councilmembers, Other County Officials Must:

- ***Sustain and Expand Productive Farming and Healthy Food Supply in the Montgomery County Agricultural Reserve***
- ***Deny Proposed Zoning Change Allowing Industrial Solar in the Reserve and Recommit to the Permanence of Farming in our Agricultural Reserve and Maintaining Low Price Farmland for Food and Fiber Production***

➤ ***Promote an Efficient Transition to Affordable Renewable Energy Through Smart Solar Development Outside the Agricultural Reserve and Adoption of a Community Choice Energy Program***

In January, 2021, the Montgomery County Council, in exercising its land use decision-making authority, faces a stark choice. Approval of the proposed zoning change – Zoning Text Amendment 20-01 - would allow large industrial solar arrays in the Agricultural Reserve, a move the farming community believes would destabilize the affordability and permanence of workable farmland. The choice before the County Council on this proposed zoning change is abandonment of the long-standing County vision and support for our nationally acclaimed Agricultural Reserve - a consequential decision about the future of food production and food security in our County, the preservation of clean water supplies, and the ability of soils and ecosystems to sequester carbon and provide climate resilience. The Actions described here are offered to guide Councilmembers in acting as Stewards and Trustees of the Agricultural Reserve.

Action 1: Recommit to the County’s wise vision of the Agricultural Reserve: support for sustained and expanded healthy food production in its agricultural economy, improved food security and resident health, and new farm job creation and training opportunities.

A renewed County vision and commitment to enhanced food production in its set-aside Agricultural Reserve will improve food security and residents’ health, and create new farming-related jobs and training opportunities. Rather than undermine its farming economy, the County Council should further support increased food production in the Reserve through expansion of existing farms, continued focus on healthy food crops, and entry of diverse new farmers seeking to reconnect to the land and feed fellow residents. Barriers to farming expansion and entry, especially escalating land and land lease prices, must be prevented, and training in best practices for productive, sustainable farming should be continued and enhanced.

Connections to our food banks, schools, grocery stores, restaurants, and other distribution networks for healthy food products should be expanded. The County should actively promote its farm-to-table economy and farming’s contributions to the health and wellbeing of its residents and local economy.

County Government must remember the lesson taught in the Master Plan. The basis of the Agricultural Reserve and Open Space Master Plan – supporting the *permanence* of farming, and avoiding the “Impermanence Syndrome” -- remains the same today as when it was written in 1980. Its dire warning resounds: *Farmers’ perceptions that agriculture is short-lived in an urbanized County will doom its continuation.* Farmers will not choose to expand food production, if they believe County leaders do not value agriculture and see signs that the farm-supportive environment of the past 40 years is eroding.

Just as the solar land boom affects existing farmers, it will create barriers for new and diverse farmers. As of January 2021, 40 farmers from around the region and the world, have pending applications in the *Land Link* program of Montgomery Countryside Alliance. *Land Link* matches farmers seeking to farm, with landowners in the Ag Reserve who have suitable land to rent.

(<http://www.mocoalliance.org/land-link.html>) Over 500 acres of farmland in the Reserve are now being worked by farmers who found their land (and landlords) through *Land Link*.

As hopeful as this is, land affordability to farmers is key to farming's sustainability, and the stability of land rents and long-term land leases are vulnerable to price shocks from incursions of deep-pocket interests. Early-warning signs in the form of farm lease terminations are already being experienced by farmers in the Reserve, as the County Council promotes the hand-over of land in the Reserve to solar industry interests through the zoning change it now proposes.

New and diverse farm entrants will not launch the farming operations they would like to locate in our County, if farming's future here is questionable. Big Solar's intense lobbying for the proposed ZTA, and its lucrative offers to landowners in the Reserve for land leasing contracts, fuel the prospect of widespread rent increases spurred by the solar boom. This direct threat to existing and new farmers' bottom lines creates the perception that farming is no longer supported by Montgomery County. This is the "Impermanence Syndrome" eroding the foundation of a local farming economy the Ag Reserve is intended to prevent. That Syndrome must be avoided.

Action 2: For preservation of a healthy Agricultural Reserve, the County should deny the proposed zoning change quickly and definitively. The County should continue its policy of prohibiting industrial solar and limiting solar installations in the Agricultural Reserve to those strictly "accessory" to agricultural operations. It should take speedy actions to deter escalating land prices and maintain low price farmland in the Reserve.

The County should quickly and definitively reject the proposed ZTA. It should continue its zoning policy of prohibiting industrial solar and limiting solar installations in the Agricultural Reserve to those strictly "accessory" to agricultural operations. Failure to do so will fuel the Impermanence Syndrome, by gutting the extensive Master Plan preservation and zoning measures that help ensure the availability of low price farmland needed to support farming's permanence.

The County should also take strong steps to reverse the damage done by the solar industry's ZTA lobbying and its aggressive lease price escalation offers in the Reserve. Strong, unambiguous messaging of Master Plan policy continuity and farming permanence should be designed to bring land and lease values back to pre-ZTA levels such that existing and new farmers will not be priced out of commercial farming in the Reserve.

Action 3: The County should aggressively pursue an efficient County-wide transition to affordable renewable energy sources. This should include enhanced County support for solar projects on suitable properties outside the Reserve that provide genuine cost benefits for energy users, and, on the energy consumption side, adoption of a robust Community Choice Energy Program offering affordable renewable energy to all County energy consumers.

The County should continue aggressive climate change measures including support for renewable energy development by private and public sponsors on suitable *non-Reserve* locations in the County and elsewhere. Incentives for development of renewable energy generation at suitable locations *outside* the Agricultural Reserve should be enhanced, and the County should

continue to focus on additional projects built on “brownfield” land, impervious surfaces and other sites that produce genuine cost benefits for energy users.

The County should adopt and execute a Community Choice Energy Program incorporating *competitively-sourced* Power Purchase Agreements to leverage its aggregate energy *demand*. This is the best catalyst for a rapid and efficient transition of County’s energy users to renewable energy at affordable prices. The solar industry should be invited to support the CCE Program by *competing* for solar energy Power Purchase Agreements that provide County electricity users clear and beneficial prices.

I. In 1980, Montgomery County Carefully Protected an Agricultural Reserve to Ensure Survival of Robust Food-Producing Farms Through Zoning and Other Measures Making Low Price Farmland Available to Existing and New Farmers.

Foreseeing the importance of a County fresh food supply, and after listening to extensive community input and County planning, Montgomery County established its acclaimed 93,000-acre Agricultural Reserve (“Ag Reserve” or “Reserve”) in the northwest part of the County in 1980. Montgomery County adopted a *Master Plan for Preservation of Agriculture*² that:

... focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County. Local government can control the quantity of land designated for farmland preservation, given its policy power and overall growth policies. However, local government can do little to influence the national or international food pricing policies, to influence the economics of a farm operation, or the commitment of a family to farm. Despite local government limitations to maintain farming, the fact remains that the burden of protecting the land itself falls almost exclusively on local government. However, the [Plan’s] proposal to separate development rights from the farmland is intended to be an economic incentive to the continuation of farming.” (Master Plan, Forward, p. i)

The Master Plan derived from Montgomery County Council’s request to the Montgomery County Planning Board to “review elements of an effective program of agricultural land preservation that would preserve farm activity without a large expenditure of public funds.” (Master Plan, The Charge, p. ii) The Plan arose from grave concerns about: “continuing losses of farmland and the critical need for protective measures.” (*Id.*)

The Master Plan predicted that:

Ten years from now Americans will be as concerned over the loss of the nation's prime and important farmlands as they are today over the shortage of oil and gas . . . [t]hese sentiments are voiced by many in all levels of government and among farmers themselves. Now, an additional concern has entered the preservation picture. The quantity of crops, and not simply the protection of agricultural land for its open space amenity value, has become very important. Yields per acre throughout the United States are no longer increasing as in the past, while export demands become important in light of the balance of payment dilemma. The preservation issue affects all of us in terms of foreign policy, national economy, and basic humanity. (Plan, Ch. I, pp. 1-2)

Forty years later those concerns have only increased. By 2017, over 2,000 acres a day of farmland and ranchland are being “paved over, built upon or converted to uses that threaten the future of agriculture.”³ The Master Plan’s heart was a land use issue:

The critical land use issue in this Plan is the loss of productive farmland; the focus is the identification and application of land use regulations and incentives to help retain agricultural land in farming and complementary rural open space areas. The goal of 110,000⁴ acres appears adequate to provide a viable land mass, an Agricultural Reserve, that

² *Preservation of Agriculture & Rural Open Space Functional Master Plan*, approved and adopted 1980 (“Master Plan”), <https://montgomeryplanning.org/wp-content/uploads/2016/09/PreservationAgricultureRuralOpenSpaceFunctionalMasterPlan1980ocr300.pdf>.

³ *Farms Under Threat: The State of the States, Executive Summary*, American Farmland Trust.

⁴ Reduced later to about 93,000 acres.

would serve to define and support the critical mass of farmland in the County.” (Plan, Ch. I., p. 8) (emphasis added)

The core problem for preservation of agriculture was simple:

“As more people seek suburban and rural environments in Montgomery County, **land prices increase beyond their use value in agriculture**. The environment that was so enticing is destroyed, and the fields lie untilled, awaiting development. Meanwhile, those already living there voice a strong desire to preserve the County's rural character. This pressure seriously threatens the primary land use element of the Study Area, farmland, and creates a climate identified by the New Jersey Commission on Agriculture as the **Impermanence Syndrome**--the feeling by farmers that farming is doomed in their area.⁵ This psychology is seen as a key factor, perhaps more so than direct economic conditions, for the decline of agriculture in the wedge areas of Montgomery County. The **Impermanence Syndrome** results from the convergence of many factors-- development pressures, rising taxes, departure of support industry for stronger markets, loss of political influence, laws that inhibit necessary agricultural practices, rising labor costs in the face of urban employment opportunities, suburban neighbor nuisances, and land speculation. The Syndrome is manifested in an agricultural community that increasingly sees no future for itself and its children; that regards eventual over-running by the suburbs as inevitable. Soon, the critical mass of farms and services necessary to sustain a viable agricultural community crumbles. . . . (Ch. II, pp. 10-11)(emphasis added)

The Master Plan concluded:

“It is in the public interest to preserve farmland . . . Farmland preservation not only involves the preservation of individual farms, productive soils, and way of life, but it meets a variety of national, regional, state, and local objectives . . . The need to preserve farmland in a County that already provides for a balanced series of growth alternatives can be justified in seven broad public purpose areas. These areas are not necessarily in a priority listing: A. Control of Public Costs and Prevention of Urban Sprawl . . . B. Adherence to County Growth Management Systems. . . C. Preservation of Regional Food Supplies . . . D. Energy Conservation . . . E. Protection of the Environment . . . F. Maintenance of Open Space . . . [and] G. Preservation of Rural Life-Styles.” (Plan, Ch. IV, p. 27)

Four public purposes identified in the 1980 Master Plan go to the heart of a vibrant Ag Reserve capable of producing a food supply, and are even more important now than in 1980:

C. Preservation of Regional Food Supplies. Preserving farmland plays a significant role in food production in the State. Montgomery County's contribution is necessary for the State to maintain its current level of producing 55 percent of the food needed by State residents.⁶ Importance of agriculture within the state is well documented in "Breadbasket of the Revolution, Maryland Agriculture 1776-1976"⁷ . . . Also, the significance of Montgomery County agriculture increases, when viewed as part of a larger regional agricultural community . . . The demise of farmland here

⁵ Referring to this syndrome, the principal author of the Master Plan wrote: “The great barrier to saving farmland was as much psychological as economic or political.” Royce Hanson, *Suburb, Planning Politics and the Public Interest*, Cornell Univ. Press, 2017, p. 189.

⁶ The Second Annual Growth Policy Report, Fiscal Impact Analysis, MCPB, 1975. Real Estate Research Corporation, *The Cost of Sprawl*, Washington, D. C., 1974.

⁷ Maryland Agriculture Week Committee, January, 1976.

will affect neighboring farm areas by reducing the number of productive acres and by pushing the urbanizing fringe further and further out, thereby threatening productive farmland in Howard and Frederick Counties⁸ As a more-recent indicator of the status of food production and food supply, a recent Johns Hopkins study reported that Maryland farmers produce 46% of the state's egg demand, 28% of milk demand and 26% of the beef demands.⁹

D. Energy Conservation. When farming is located in proximity to primary markets, urban centers or international ports (Baltimore), energy is conserved by reducing transportation cost to the marketplace, and, in turn, can influence the cost of the product to the consumer

E. Protection of the Environment. Farmland preservation protects the rural environment--especially, sensitive headwater areas, conservation areas, wildlife habitats, floodplains, etc., from the impact of development. It also serves as a "clean air shed" to clean the atmosphere, as well as a mechanism to protect the quantity and quality of water resources. . . . A detailed explanation of the effect of farmland preservation upon the environment can be found in Chapter VI. F.

F. Maintenance of Open Space. The open space qualities of farmland preservation are significant. It provides productive, privately maintained agricultural open space with environmental benefits that include rural aesthetics and air and water quality . . . These open space areas are vital to the buffering of the agricultural preservation areas and can also provide leaseback arrangements for interested farmers. (Plan, Ch. IV, pp. 28-30)

The Master Plan adopted comprehensive measures designed to achieve those public purposes. Central to its approach were factual findings that development pressures had pushed most agriculture off of the County's Type I soils. The Plan determined that the County's prime and productive farm soils include not just Type I soils, but also Types II, III and IV soils:

Montgomery County still has a large amount of highly productive farmland. Overall the County has a considerable amount of **prime** soils, approximately 112,000 acres. **These prime soils, Soil Types I and II are productive with a minimum amount of land management . . . These soils, though highly productive for agricultural crops, are also the prime soils for development.** In the Seneca, Muddy, Bennett, Watts and Monocacy watersheds, a combination of Soil Types I, II, III, and IV are evident. **Soil Types III and IV, which have more agricultural production problems, are nonetheless well suited to particular types of agriculture. Good farming practices such as no tillage/limited tillage techniques, which increases the overall productivity of these soils, is very important in Montgomery County where all soil types have the potential for erosion. The farmer of today is doing the majority of his intense cropping on Soil Types II and III, while 20 years ago the majority of intense cropping was taking place on Soil Type I. The Montgomery County farmer is being pushed from the naturally high productive soils by development,** according to Bobby Rakestraw, SCS District Conservationist. (See Generalized Soils Map.) (Plan, Ch. III, The Facts, pp. 24-25) (Emphasis added)

⁸ The Plan continues: "The loss of agriculture in Montgomery County will increase development pressures in Howard County and Frederick County at a time when citizens, farmers, and decision makers there are struggling to retain a viable farm community."

⁹ Greg Bowen, "Maryland and Food Self Sufficiency," guest blog post, May 12, 2015, <https://livablefutureblog.com/2015/05/maryland-food-self-sufficiency>.

The Master Plan concluded: “It is clear that farming is an economically viable industry operating on both **prime and productive lands in Montgomery County** and contributes to the economic well being of the regional agricultural community.” (*Id.*, p. 25) (Emphasis added)

However, the Master Plan issued a clarion warning of County farming’s threatened demise:

. . . the economic well-being of the industry is being threatened, since a) the Rural Zone is ineffective, alone, in reducing farmland conversions, b) Montgomery County can ~ no longer rely upon existing zoning techniques and a septic system suitability policy, a perk policy, to guide future population density and c) the lack of public water and/or sewer does not deter development activity. Definitive new land use policies and zoning techniques must be developed that specifically address the future disposition of land in the Study Area with emphasis upon farmland preservation. **Farmland and open space are irreplaceable and valuable natural resources, and should be protected. The loss of such a viable agricultural industry is a very real problem.** Plan, Ch. III, The Facts, p. 25. (Emphasis added)¹⁰

To meet this looming threat, the County’s Master Plan made this enduring commitment:

A PUBLIC POLICY COMMITMENT Since farmland preservation serves a series of public purposes, Montgomery County must commit itself to the preservation of farmland and adopt a plan which supports that goal. In the absence of a specific preservation effort, farmland will continue to be converted to residential, commercial, and industrial uses. Without a County farmland preservation program, the future of farming in Montgomery County is bleak . . . Given the current trends, in seventy years no farmland of any significant size will remain in the County; this will probably occur much sooner since the industry will collapse well before the last cow dies! (Plan, Ch. IV., p. 31)

Fortunately, the County’s longstanding efforts to preserve farmland, farms, and the agriculture economy bore fruit. In 2007, a County Working Group summarized the nearly three decades since the Master Plan was adopted:

In 1981 the County Council established Montgomery County’s Agricultural Reserve to preserve farming, provide open space, and protect the environment. The County’s Functional Master Plan for the Preservation of Agriculture and Rural Open Space limited residential development in nearly one-third of the County in order to achieve these goals. The Agricultural Reserve was visionary and bold at that time, and we believe that the Council’s goals behind establishing the Agricultural Reserve remain entirely valid today. ***The Agricultural Reserve is regularly cited throughout the United States as the country’s leading model for agricultural, open space, and environmental preservation.*** Over the ensuing quarter century, Montgomery County has changed enormously, in population size and diversity, economic activity, and land use. The Agricultural Reserve, meanwhile, has succeeded in preserving agriculture in the County. The mix of agriculture, to be sure, has evolved. For example, dairy farming has dwindled while specialty farms have increased in number and value. This evolution has only confirmed that agriculture can

¹⁰ “In fact, a recent survey by the Harris Poll (Louis Harris and Associates, Inc.,) for the U.S. Department of Agriculture revealed that a majority of Americans consider the loss of prime farmland to be a serious problem. The survey also found a “strong and consistent” preference for allocating more scarce resources to agriculture . . . and by two to one, those interviewed agreed that preservation for its own sake is not the goal but preservation to produce goods.” Plan, Ch. III, The Facts, p. 25.

be preserved as an integral part of a modern, vibrant, and diverse metropolitan region. Over this same period, public awareness of environmental issues and threats to natural resources has grown exponentially, so that today the Agricultural Reserve is widely viewed as an environmental oasis in a sprawling metropolitan area. Citizens not only recognize the intrinsic value of agriculture, but the extraordinary benefit of preserving open countryside for every citizen to enjoy and experience, and of an environmental asset that helps preserve the healthfulness of our water supply and of the air we breathe. (Final Report of the Ad Hoc Agricultural Policy Working Group to the County Council, Montgomery County, Maryland, January 2007, p. 1) (Emphasis added)

Twelve years after the 2007 Report, with an even more urbanized metropolis, the number of productive County farms has remained steady. As the County’s Planning Board reported in December 2019:

Farming and farmland have evolved since the establishment of the Agricultural Reserve nearly four decades ago. In 1978, just prior to the establishment of the “Ag Reserve,” Montgomery County had 667 farms. This number remained relatively stable until 1992, when the number of farms decreased to 561. The number of farms has remained stable since the 1990s, with 558 farms identified in the 2017 Census of Agriculture produced by the United States Department of Agriculture. (Staff Report to Planning Board, December 19, 2019, pp. 2-3)

To help strengthen the County’s evolving farm economy, including the growth of farms producing table crops, in December 2019, the Planning Board prepared an Agritourism Study to find ways to bolster farms and farm production:

- Protect and preserve farming, farmland and rural open space in the Agricultural Reserve.
- Support existing and future agritourism activities through improved processes for agritourism businesses and promotional tools.
- Support agritourism activities with a direct relationship to agriculture, to facilitate preservation of farming, farmland and rural open space.
- Increase awareness of the Agricultural Reserve’s assets through education of agricultural practices and better wayfinding.
- Provide inclusive and equitable access to the Agricultural Reserve.”

(Agritourism Study, December 2019, Overview of Goals and Potential Solutions, p. 3-
<https://montgomeryplanning.org/agritourism-study-presented-to-montgomery-county-planning-board/>)

The Planning Board Study concluded: “retention of these [Montgomery County] farms and their economic contributions to the County are particularly notable in a metropolitan region where development pressures remain constant.” Although some county officials and others have downplayed the role of Montgomery’s Agricultural Reserve in supplying food directly to people, this is a misconception. According to the Montgomery County Office of Agriculture, as of 2017 “There are 454 farms or 81% that produce table food crops/products for direct human consumption.”¹¹ Indeed, the Agricultural Reserve contributed over \$281 million to the County’s

¹¹ Montgomery County Office of Agriculture, Fact Sheet (2017) *Preserving Our Agricultural Heritage: Connecting Our Past With Our Future*.
<https://www.montgomerycountymd.gov/agsservices/Resources/Files/2017AGCensusMCFactSheetFINAL.pdf>.

economy in 2017.¹² The strong trend favoring table crop production creates a compelling opportunity to supply local residents with healthy foods needed to combat food insecurity and deficient nutrition.

II. Agricultural Reserve Farms Create a Food Reservoir to Combat Increasing Food Insecurity and its Adverse Health Effects Among County Residents.

These nationally acclaimed County measures protecting the Agricultural Reserve land for farm production and related public purposes created a public good – low land prices supporting current and future agriculture production to satisfy the basic human need for healthy food. Our nation’s and region’s persistent food insecurity is an urgent need in search of solutions. Increased fires, droughts, floods, invasive species, crop diseases and lack of biodiversity threatening food supplies throughout the country underscore the County’s wisdom in vigorously preserving its productive agricultural land.

The County’s agricultural land preservation created a local source of readily accessible food to feed the County’s population in times of relative plenty and times of emergency, as we now confront. As recently as 1980, “County farms produce[d]: Enough milk to provide residents 1/3 cup of milk daily . . . Enough beef for each resident to have 13 pounds each year . . . Enough grain for every resident to have 1-1/2 slices of bread per day . . . Enough vegetables to supply each resident with 13 pounds per year. . . Enough peaches and apples to supply each resident with 2 pounds per year.” (Plan, Ch. III, p. 21)

An expanding County farm economy creates the opportunity to counter increasing food insecurity in our County’s most vulnerable communities. As important, it creates local sources to provide the healthy foods those communities have difficulty accessing or affording¹³ while more affluent communities enjoy the County’s (and District’s) cutting-edge restaurants and

¹² *Id.*

¹³ The Manna Food Center writes of its program: “**Farm to Food Bank** - Fresh fruits and vegetables are an essential part of a healthy diet, and many Montgomery County residents don’t have access to these important nutritious foods, which is why Manna created its Farm to Food Bank initiative in 2010. Farm to Food Bank provides fresh, locally regionally grown produce to those experiencing hunger and food insecurity in our community by purchasing from neighboring farms throughout the growing season. In the past year, Manna purchased **125,209 pounds of produce!**

Manna is proud to support local farms, orchards and farmers markets as a matter of philosophy. To ensure this vital program thrives, Manna works with Montgomery County farmers and farmers markets within the county. We are deeply grateful to these partners for their enthusiastic participation and for their meaningful donations of often hundreds of additional pounds of food.

We also support the consumption of farm fresh vegetables and fruits through our food education programs. To make a life-long impact on community members we serve, Manna knows that information about selecting and preparing fresh food on a limited budget must be available.

At Manna Food Center, we know that supporting our local food system is an integral part of increasing food access for all residents and essential to our goal of eliminating hunger in Montgomery County.” (emphasis in original) (<https://www.mannafood.org/programs/farm-to-food-bank/>)

grocery stores. Farming's growth also supports County restaurants, grocery stores and farmers' markets as they benefit from promoting farm-to-table local foods.

An expanding farm economy is also necessary for farmers of color being able to cost-effectively access low cost land in the Agricultural Reserve to develop and grow farm businesses, often by leasing land, and to help step up culturally appropriate local food supplies. Farmers of color have historically been disadvantaged through discriminatory government policies in obtaining support from federal and state farm programs. Those farmers increasingly look to the Reserve to start or relocate their farm operations.

One example is farmer Tanya Spandhla, whose Passion to Seed Gardening farm grows crops from her native Zimbabwe, including Zimbabwean corn.¹⁴ Ms. Spandhla found the land that she farms through the Montgomery Countryside Alliance's Land Link program.

The Land Link Program connects farmers from around the region and all over the world, with landowners in the County's Ag Reserve. To date it has matched land seekers with a total 500 acres for farming. It currently has 37 land seekers and 16 landowners enrolled in the program designed to make compatible land owner-farmer matches.

A further difference from 1980 is the heightened scientific and social awareness of the connection between nutrient-deficient diets relying heavily on processed and preserved foods, and poor and even fatal health outcomes. Low-nutrition diets disproportionately hurt communities of color, low income families, and immigrants, leading to increased levels of diabetes, hypertension, low birth weight and other adverse health issues. The 2017 Montgomery County Food Security Plan, produced by the Montgomery County Food Council, indicated:

Lack of access to healthy, nourishing food undermines the health and well-being of children and families. In Montgomery County, 7% of the County's population is estimated to be food insecure (77,780). Children are especially vulnerable to families' economic status. Nearly 13.9% of the County's children are estimated to be food insecure, representing 33,000 children. This number of food insecure children is higher than any other County in the state.¹⁵

The COVID pandemic has worsened this food insecurity in Montgomery County. Experts in the topic of food insecurity, using U.S. Census Household "Pulse" Survey data, estimate that food insecurity rates among U.S. households have at least doubled due to the disruptions from the COVID pandemic.¹⁶ Applying this "doubling" factor to the 2017 estimate of the number of food-insecure residents here, equates to 156,000 Montgomery County residents now experiencing hunger and food insufficiency – roughly 15% of our population. The long lines at food bank distribution centers bear witness to this trend. This translates to about 52,000

¹⁴ <https://mocofoodcouncil.org/meet-our-council-member-tanya-spandhla/>.

See <https://view.joomag.com/plenty-fall-2019-fall-plenty-2019-web/0558981001568839309/p14?short&> and <http://www.mocoalliance.org/land-link.html>.

¹⁵ *A Food Secure Montgomery: What We Know Now and What We Can Do- A Five-Year Strategic Plan.* <https://mocofoodcouncil.org/food-security/>.

¹⁶ <https://www.ipr.northwestern.edu/documents/reports/ipr-rapid-research-reports-pulse-hh-data-1-june-2020.pdf>.

households – many with children. Persistent, and now pandemic-induced, food insecurity further exacerbates the health problems caused by non-nutritious foods.

Just recently, Montgomery County recognized these food insecurity and deficit-nutrition crises by partnering with expert non-profits to help fund County farms to combat food insecurity by building food production capacity in the Reserve. The County Council helped fund a Food Bank Capacity Building Grant program involving 22 Montgomery County farms.¹⁷ Administered by Manna Food Center, the program made \$236,804 in grants to 22 Montgomery County-based food producing farms¹⁸ to improve their infrastructure and expand their capacity to contribute local food to the Montgomery County Farm to Food Bank program in 2021.

The 22 farms participating in the program are well known farms, and also relatively new entrants: Alden Farms, Amaranth Acres, Beauty Blooms, LLC., Bella Vita Farm, Bethel World Outreach Organic Farm, Butler’s Orchard, Button Farm, Cedar Ridge Community Church Farm, Chicken of the Woods Farm, Dodo Farm, Eat the Rainbow Farm, Lewis Orchards, Love and Grit, LLC., Koiner Farm, One Acre Farm, Passion to Seed Gardening, Purple Mountain Organics, Red Wiggler Community Farm, Sandy Spring Gardens, Savage Acres Farm, Inc., Tanglewood Farm, and The Farm at Our House.¹⁹ These are less than 4% of the County’s approximately 560 farms.

Grant awards are funded by the Montgomery County Government, Manna Food Center, and Food for Montgomery, a fund of the Greater Washington Community Foundation. The Food Bank Capacity Building Grant Program focuses on the long-term ability of County farms to increase healthy food production. The grant applications were assessed by food security and agriculture experts on criteria such as long-term viability of the project, the farm’s ability to increase the quantities of culturally appropriate food being provided to local food assistance organizations, and the promotion of sustainable farming practices.

These recent public-private County initiatives recognize the past and future role of farm production in the Agricultural Reserve. Montgomery County farms were a key “breadbasket” of the American Revolution. Today’s wisely preserved County farmland and farms, a short distance from its population centers, increasingly play a similar pivotal role, being specially valued and enhanced to help overcome persistent food insecurity and improve the health of local residents. These shared values form a long-standing pillar of our County’s *social capital* – farmers working the land in a supportive community to feed others they do not know.

III. The Proposed Zoning Amendment Undercuts Long-Planned Sustainment of the County’s Agricultural Economy and Will Drive Farmers Off Reserved Farm Land

¹⁷ <https://mocofoodcouncil.org/capacity-building-grant-program-awards-funds-to-22-montgomery-county-farms/>. (“The Montgomery County Farm to Food Bank Program is part of the Food for Montgomery public-private partnership between the Montgomery County Food Security Task Force, the Montgomery County Food Council, the Montgomery County Office of Agriculture, Manna Food Center, and the Greater Washington Community Foundation.”).

¹⁸ *Id.*

¹⁹ *Id.*

The 1980 Master Plan effectively preserved farmland and supported a vibrant farming economy to meet important public purposes. At their core, the Plan's innovative measures worked to maintain low-cost farmland accessible for farm expansion and new farmers as well as a commitment to agriculture that reinforced its "permanence" in the County. The measures also deliberately created an expectation among County farmers and potential farmers that low cost land would be available for purchase or lease as they planned to increase or enter agricultural production.

Of all the factors that determine long-term viability of a region's farming economy, farmers' *land access* is the most crucial. Land access centers on annual per-acre rents, and per-acre land purchase prices. Obtaining leases that are affordable, and keeping those leases over time, is crucial for the 60% of Montgomery's farmers who rent the land they work. "Farmers are price-takers, not price-makers. The only way they can make a living is to reduce their costs of production," according to County Office of Agriculture Director Criss. He pointed to an example of a commodity farmer, noting that "He rents the land that he farms, and \$120 an acre is all that he can afford to produce his crops of corn, wheat and soybeans. If that land rent goes up, he's out of business."²⁰

In 2017, the National Young Farmers Coalition surveyed more than 3,500 young farmers and ranchers across the country and found that:

. . . regardless of geography or whether they had grown up on a farm, land access was their number one challenge. In particular, farmers reported struggling to find land to buy or rent that was affordable on a farming income, that had the appropriate resources for their operations, and that had housing opportunities. Twenty-eight percent of respondents who cited land access as a challenge, felt insecure and worried that they would lose their access to land.

Land access for farmers, and the other pillars of a strong, enduring farming economy are now under attack by a well-intended, but misplaced, re-zoning proposal for industrial solar development in the Agricultural Reserve, not its highest and best use. Industrial solar's introduction in the Reserve will induce, and is already inducing, steep land and lease price increases, and notices sent to tenant farmers indicating impending termination of their land leases. The uncertainty about the availability of affordable land reinforces the Impermanence Syndrome that will doom continued commercial farming in the County's Agricultural Reserve.

As a Reserve farm family reports, the proposed ZTA's damage has begun:

Jamison Ag and Turf is completely against ZTA 20-01. This ZTA will hurt local farmers who rent crop ground from landowners. We cannot compete against the rental payments from the solar companies who are paying 5-10 times more than what we are able to pay. If this ZTA passes, not only will [it] put the acres we rent into jeopardy, but will have a long-term negative impact on the younger generation of farmers. We already have three landowners who want to put their farms into solar panels with the anticipation of more to follow. ZTA 20-01 is already beginning to show the unintended consequences that it will have on farmers with regard to the

²⁰ Jeremy Criss, Director, Montgomery County Office of Agriculture, phone call with Diane Cameron, September, 2020.

landlord/tenant relationship. We are witnessing some leases being tailored to short-term (year to year) on the premise that the landowner can convert to solar when zoning may allow.²¹

The *Big Solar* industry is lobbying County Government for the proposed zoning amendment, a deeply flawed reversal of 40 years of prudent, forward-looking County farming-support policy. Ironically, the industry's lead lobbyist in that effort publically acknowledged the economic plight of farmers and the decline in family farm ownership, as well as the need to work collaboratively to solve access-to-farmland problems *before* implementation of any Community Solar in rural Pennsylvania.²² In Montgomery County, Big Solar has been silent about the devastating impact of escalating land lease prices its lobbying efforts and pending offers to land owners in the Reserve have already caused.

In Montgomery County, the zoning amendment is bad for the Agricultural Reserve and its farming future, at core, because solar developers and speculators will continue to bid up land prices and rents in our unique Reserve located in an urbanized jurisdiction of 1.1 million residents. These price increases will drive farmers off the land and limit their expansion opportunities. Rather than recognize the amendment's lease price escalation impact on Reserve farming - "the price charged for renting farmland" - those indisputable effects are mischaracterized as "open to question."²³

The zoning amendment's land and lease price effects cannot be extrapolated from reported data about solar development's effects on farmland in a different region, state or county. Land and land lease prices are a function of all the interacting factors identified in the Master Plan that affect a local agricultural market, "location" being everything in real estate.

In anticipation of the ZTA being enacted, Agricultural Reserve landowners are receiving sharply higher priced offers to lease land and farmers are questioning their ability to lease additional land for expansion. Solar developers' rush to control cheap Reserve land is under way. Those developers are already offering 5-10 times (or more) recent lease prices for Reserve parcels, defeating farmers' decades-long expectations that they can maintain and further expand farm operations by accessing low-price land and land leases.²⁴ In effect, our County's carefully tended farming Reserve of low-priced land is being offered to Big Solar at rock bottom prices.

On a much larger scale, the same land price escalations recently happened in the State of Maine as part of a solar "land rush" after the state revised its Community Solar rules. Big Solar developers including Turning Point, a leading proponent of the ZTA, poured in: "like an old time

²¹ Jamison Ag & Turf, letter to Council President Sidney Katz, September 24, 2020.

²² Letter of Leslie Elder, Mid-Atlantic Director, Coalition for Community Solar Access, September 1, 2020, p. 3 ("... [Pennsylvania] farmers have been barely breaking even since 2015 . . . [m]any farmers do not see a feasible path for farm succession and it is vitally important that the legislature consider alternatives to bolster farm viability and support new farmers in succession planning . . . CCSA and our members are committed to working hand in hand with the . . . Farm Bureau and individual farmers in developing land leasing best practices *before* [Community Solar] program implementation.") (emphasis added). Ms. Elder is also Executive Director of a Big Solar PAC, although that role is not mentioned in her financial disclosure for the Joint Council Committee Task Force considering amendments to the ZTA.

²³ Worksession Memorandum to County Council from Jeffrey L. Zyontz, Senior Legislative Analyst, September 24, 2020, p. 16.

²⁴ Jamison Ag & Turf, letter to Council President Sidney Katz, September 24, 2020.

gold rush [with] prospectors . . . staking their claims, studying circuit maps and property tax records”²⁵ “All summer, developers such as Turning Point have been cold-calling landowners, sending emails and letters and working with local partners to gain a foothold.” The prices being offered are multiples of the going rate: “. . . they are offering \$800 and \$1,000 an acre, per year. That’s a windfall in central Maine, where landowners typically lease hay fields for \$50 an acre.”²⁶

In a state as large as Maine, a 15-20 fold increase in lease prices in widely dispersed areas may not sink farming’s prospects. Here, the core farming economy in Montgomery County, a heavily urbanized County with a large population, is located in a major metropolitan area. Dramatic land price increases inevitably undercut the County’s farming community where 60 percent of farmed land is leased, and County farmers depend on low cost land to expand or enter farming. Given the centrality of land access to viable farming in the Reserve - the intrusion of a politically-favored non-agricultural industry – Big Solar, with its land price escalations, means the proposed ZTA is not just bad, but *fatal* to sustained commercial farming and food production in the Agricultural Reserve.

Amendments to improve the ZTA will not solve the fundamental problems recognized in the Master Plan. Industrial solar development inserted into protected Agricultural Reserve areas will not maintain low land prices *for farmers now and in long term*, and cannot co-exist with farms that produce food and fiber. It’s all about land prices and rents.

Limiting total industrial solar installation in the Reserve to 1,800 acres, *for now*, does not limit the inevitable damage to Reserve farming. The proposed zoning amendment reinforces the *Impermanence Syndrome* feared in the Master Plan. As predictable today as it was 40 years ago, opening the Reserve to industrial development will drive up land prices, and increase land lease prices even higher than 5-10 times their previous level. The Jamison Ag & Turf letter cited above, shows that Big Solar’s intrusion in the Ag Reserve is already creating a negative ripple effect on farmland rents, and farmers are already losing – or about to lose – their leases.

Once 1,800 (or 900) acres are open to Big Solar developers, farmers will reasonably fear – in the near-term and for family succession planning – that more Reserve acreage for solar development is on the horizon. Some landowners will welcome the zoning change that increases the dollar value of their holdings in the Reserve.²⁷ The solar industry’s PACs and other donors will pour contributions into the County while the industry lobbies for “just another 2 percent” or more. Indeed, Big Solar’s lead lobbyist pushing the ZTA runs an out-of-state PAC that supports

²⁵ *New law and Gov. Mills’ energy goals set off solar-farm land rush*, Press Herald, October 6, 2019, updated December 27, 2019.

²⁶ *Id.*

²⁷ Letter from Doug Bouchard, dated July 7, 2020, to County Council. In arguing for the economic benefit landowners will receive from the proposed ZTA, the letter’s author, one of the designated environmentalists on the County-appointed Solar Stakeholder Working Group, asserts that farming in the Agriculture Reserve is currently uneconomic and a money loser for most farmers. He contends that industrial solar in the Reserve will help agriculture, ignoring the fact that 60% of Reserve farming is on leased land whose farmers will suffer not benefit from higher lease prices.

pro-industrial solar candidates for public office.²⁸ Moreover, backers of Big Solar’s position have stated that the *two percent ZTA* is only the beginning of a larger push for tens of thousands of additional Montgomery County farm acreage that the solar industry is hungry to access.

Another threat is imminent. Once the Reserve is open to 1,800 acres of industrial solar, the solar industry will push to have the Public Service Commission authorize much larger scale (multiples of 2 MW) solar installations in the Reserve.²⁹ The PSC is currently deterred from doing so by its policy of deferring to County zoning restrictions that strictly limit solar installations in the Reserve to those that provide energy directly to farm operations, i.e., they are ancillary to farming. Once the County abandons that policy, the horse, so to speak, is out of the barn.³⁰ The County may lose any ability to prevent more massive solar installations in the Reserve. Apart from PSC action potentially triggered by the County’s abandonment of its long commitment to the primacy of farming in the Ag Reserve, another risk rises. Once the proposed ZTA is enacted, the politics of amending it to increase the solar land-acreage ceiling would be cast as a “straightforward and simple minor amendment.”

Big Solar has another ready expansion angle. The proposed ZTA does not limit industrial solar to 2 MW installations on a single site of 10-20 acres, as proponents contend. Its limitation of installations to a single maximum 2 MW facility on a *commonly owned* parcel, by omission, permits multiple 2 MW facilities on contiguous, *separately-owned but leased* parcels. Picture parcels at intersecting corners of rectangles in a patchwork quilt as a massive solar site.

Solar developers will be able to lease those adjoining land parcels and develop consolidated solar arrays over 30, 45, or 60 acres to enhance profits from operating efficiencies.

²⁸ Solar Power World, November 12, 2020. <https://www.solarpowerworldonline.com/2020/11/90-percent-pennsylvania-solar-pac-endorsed-candidates-won-races/> (article about PA Solar PAC, run by the lead industry lobbyist on the County’s Solar Stakeholder Work Group, reports how legislative candidates the PAC supports fared in local Pennsylvania elections). According to Solar Power World: “PA Solar PAC was formed in 2020 to capitalize on the myriad opportunities available to strengthen Pennsylvania’s solar economy and ensure that legislators who drive these policies forward and bring their benefits to fruition serve in the General Assembly. The organization will continue to invest in races throughout the commonwealth to support candidates who will position Pennsylvania to be more competitive in attracting solar investment and building this powerhouse sector of the economy.” PA Solar PAC’s filings on the Pennsylvania Political Contributions website show the monies spent supporting its endorsed candidates. <https://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Pages/default.aspx>.

²⁹ The scale of industrial solar projects can be enormous. A solar developer in New Jersey (Dakota Power Partners) plans to develop solar arrays on 800 acres of farmland in Pilesgrove Township, New Jersey. Unlike the Montgomery County Chapter of the Maryland Sierra Club, the New Jersey Sierra Club opposes the project on productive farm land: “As the scale of solar projects increases, it is important that New Jersey properly finds land for it . . . We should use existing developments or brownfields, create sound barriers on highways, use barges, rooftops, ponds, and more as suitable sites for solar panels.”

<https://protect-us.mimecast.com/s/IyB0CG6Q9ks0GRyNTKnIyF?domain=inquirer.com>.

³⁰ One of the Council’s Solar Stakeholder Work Group representatives considering the proposed ZTA is a Business Development Manager for Colorado-based Turning Point Energy, with solar projects throughout the U.S. Turning Point developed Danville Utilities’ (Virginia) first solar power plant, a 6 MW project, and recently helped develop a second 100-acre solar project for Danville Utilities. Turning Point touts its long-term commitment to investing in the Danville community, including \$66,000 in donations to Danville non-profits. CS Energy Press Release, dated Oct. 27, 2020, reported by Cision PR Newswire.

These much larger solar facilities will further industrialize the Reserve and drive up land lease prices, contributing to the sense that agricultural uses are subordinate rather than primary.

Nonetheless, at Big Solar’s urging, the County is considering Agricultural Reserve zoning changes without seeing them for what they are - the unnecessary death knell of commercial farming and food production in the Reserve. In rushing to reverse 40 years of farm sustainment policies, the County is relying on unverified claims of solar industry and other proponents³¹ as to the scarcity and poor economics of solar development sites in County locations outside the Reserve, and the supposed absence of superior initiatives to speed the County’s transition to renewable energy.

IV. Allowing 3-Square Miles of Industrial Solar in the Agricultural Reserve *Impedes Rather Than Advances Development of Renewable Energy for County Residents at Affordable, Competitively Negotiated Prices.*

What County farmers and other residents now face is a solar industry *land rush* to the lowest hanging, most profitable fruit in Maryland – intentionally low-priced land reserved for farming in the County’s heralded Agricultural Reserve. As explained above, these developers and speculators seek to extract so-called economic “rents” from the purposefully-maintained low priced agricultural land. At the same time, the ZTA’s adoption will deter solar industry developers and property holders *outside* the Reserve from timely investing in those other solar development opportunities that do not undercut local farming and food production.

This land rush is premised on unsupported assertions as to the necessity and effects of private industrial solar development in the Reserve.

Myth #1: Only “Community Solar” development in Agricultural Reserve will enable the County to do its “share” of renewable energy generation to reach its climate change goals: ZTA proponents assert that only privately-managed, “Community Solar” development in the Reserve will enable the County to do its “share” of renewable energy generation to reach its climate change goals. They focus misleadingly on the share of renewable energy generation that must be produced *within* Montgomery County borders to carry a proportionate share of state-

³¹ For example, a ZTA supporter simply parrots industry claims that other industrial and commercial land outside the Agriculture Reserve is too expensive to support solar development projects. Letter from Montgomery County Chapter of Maryland Sierra Club, dated February 20, 2020 (“the county’s commercial and industrial land is far more expensive, almost entirely in the price range of \$100,000 to \$1 million (or more) per acre. . . . the hugely greater cost [than that of Reserve farmland] of commercial and industrial land here makes the use of such land essentially impossible for solar development.”) However, one of the Big Solar companies lobbying for industrial-scale solar in the Reserve disagrees and itself demonstrated that industrial solar *outside* the Reserve is feasible. Turning Point recently received approval for a 2 MW industrial solar project outside the Reserve. It never would have occurred if low price land in the Reserve had then been available. Going forward, Turning Point and others have no incentive to develop additional non-Reserve projects if less expensive Reserve land is suddenly available. Further, as the County’s recent approval of 6 MW solar development projects on the large Oak Landfill demonstrates, the County can incentivize and execute substantial solar generation projects, buy low cost solar energy through Power Purchase Agreements and sponsor Community Solar (Maryland Pilot Program) projects that are much more beneficial to the County and its low income residents than any industrial solar project on private lands in the Reserve would be.

wide renewable generation. They further assert that the County itself lacks enough residential and commercial rooftops for solar energy generation to meet the County's carbon neutral goals.

These misleading claims miss the mark. First, highly urbanized Montgomery County does not have to generate 1/6th of statewide renewable energy targets for the County to achieve carbon neutrality.³² The size and pace of renewable energy generation is driven by *demand* for renewable energy rather than physical location of the generation.

In today's deregulated energy markets, energy generation anywhere within the relevant transmission grid area³³ provides power to the energy grid. Energy generation is a regional not a local resource – wind power from Iowa is sold in Chicago. Renewable energy generation's growth is a function of demand for renewable energy anywhere within the applicable grid. Affordable renewable energy that speeds user adoption in our County depends on its ability to leverage very sizeable consumption demand to obtain competition-based favorable prices and terms from renewable energy generation projects throughout its power grid.

On the supply side, less densely populated parts of Maryland and the Region within the power grid that services our County have proportionately far more available undeveloped land and far lower carbon emissions. Many of those areas outside Montgomery County are pursuing large-scale solar or wind projects. Indeed, most renewable energy generation in Maryland is in wind generation projects outside the County, even before large-scale Maryland and regional offshore wind generation comes on line – which has nothing to do with population count.³⁴ Population-based proportionality for solar generation is an arbitrary industry smokescreen. It bears no relationship to the optimal siting of renewable energy generation that will lead to widespread adoption of renewable energy by County users.

Second, industrial solar development in the Agricultural Reserve is not essential to meet County climate change goals. The real issue for County climate policy in the Energy sector is the right combination of emissions reduction, renewable energy *consumption* (i.e., demand) and generation, conservation, carbon offsets and other measures to meet its goals.

As explained below, the County is already aggressively working to achieve the best combination of sustainability measures as one of the Nation's leading local governments seriously addressing climate change. And the County has far better alternatives than this zoning change – including its Community Choice Energy Program discussed below - to rapidly transition electricity users to renewable energy sources while providing clearly defined cost savings based on competition rather than prices set by solar industry whim.

³² Letter from Montgomery County Chapter of Maryland Sierra Club, dated February 20, 2020, to County Council.

³³ Maryland is included in the PJM Interconnection LLC (PJM), a regional transmission organization (RTO) in the United States. It is part of the Eastern Interconnection grid operating an electric transmission system serving all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.

³⁴ *Mid-Atlantic States Announce Major Offshore Wind Initiative*, North American WindPower, October 29, 2020. <https://nawindpower.com/mid-atlantic-states-announce-major-offshore-wind-initiative>.

Myth #2: Locations outside the Agricultural Reserve are limited and too expensive for solar development projects.

Substantial solar development is occurring outside the Reserve and, if properly sited and incentivized, can expand vigorously where it will not harm farming. To kick off the argument these measures are inadequate, ZTA proponents start with an assumption that the addressable aggregate County rooftop footprint is too small to host sufficient solar installations to meet the County's renewable energy goals. Although relevant, the total (residential, commercial and government) rooftop footprint is but one of the impervious surfaces and other important County locations for solar energy generation.

This "strawman" rooftop constraint ignores the other County locations that can and should host production of substantial solar energy. Indeed, a comprehensive "Smart Growth Solar" approach has yet to be fully structured and promoted in Montgomery County. An integrated solar siting approach to technically and economically viable solar sites on the many industrial, commercial, and other properties *outside* the Reserve has not been fully defined. This may be because it requires disclosure and analysis of private solar development economics.

Further, the site scarcity and economic claims of ZTA proponents are not supported by any independent integrated analyses specific to Montgomery County. Some assume the proponents' claims to be valid because the industry says so, e.g., referring to a generalized price range for commercial and industrial land outside the Agricultural Reserve that makes such large solar facilities uneconomic or "essentially impossible."³⁵

However, this is a proto-typical lobbying effort in which an industry may make dubious or exaggerated claims not scrutinized by independent analysis, whether they be job creation, environmental impact or economic feasibility. The solar industry's position on the right side of renewable energy's importance in combatting climate change does not immunize it from the profit-maximizing mandates of conventional industries.

Only a cross-disciplinary understanding of the unique factors affecting Montgomery County's solar siting and economics can reliably produce fact-based findings and recommendations as to solar siting locations, economic feasibility and potential local subsidies. All who favor solar and other renewable energy sources as a crucial component of achieving carbon neutrality goals should support application of rigorous tools needed to further structure and optimize County policy decisions.

Among other things, all the County's impervious surfaces potentially suitable for larger-scale solar installations must be considered, certainly the large rooftops and parking lots throughout the County. On the public sector-side, this includes not only County's own and private properties but also the large federal, state and other government (e.g., WMATA) facilities and land holdings located in the County. While the County does not control those other government operations, each government arm has a renewable energy mandate that will contribute to renewable energy generation and emissions reduction efforts within the County. The recently closed coal-burning facility in Dickerson on more than 350 acres of industrial-

³⁵ Letter from Montgomery County Chapter of Maryland Sierra Club, dated February 20, 2020, to County Council.

zoned acres is a solar location that should be pursued rather than summarily disregarded because the County and two other parties would have to structure a solar deal.

A further developed “Smart Growth Solar” approach should also consider and reinforce the County’s large strides in reducing its carbon footprint, including renewable energy production, energy conservation, conversion of County fleets to non- or less-polluting energy sources, and carbon sequestration measures. The County today purchases or generates 100% renewable energy for its own use.³⁶

The unique advantages that past and future County initiatives offer, particularly cost savings to County electricity users derived from competitive sourcing, must also be considered. The goal should be not only to encourage solar and wind generation but to make its widespread use affordable so that County energy consumers are genuinely incented (not deterred) to transition to renewable energy.

The comparative advantages of County initiatives are evident in its aggressive pursuit of projects that substantially reduce or offset its own carbon emissions. Since 2016, County Government operations have achieved carbon neutrality through a mix of energy efficiency, renewable energy and offsets.³⁷ It has installed increasingly substantial renewable energy features – geothermal, solar and methane-conversion - at County-owned, -controlled or -involved facilities, and is pursuing additional renewable energy projects in the near future.

The County’s focus includes putting solar and other renewable energy facilities in the *right* locations - urban and suburban places - over disturbed and impervious land, including, for example, parking lots and commercial and residential roofs. Those sites do not displace or deter local farm production.

The County has already incorporated solar projects at County landfills, recycling centers, schools, and in other County areas *outside* the Reserve. The County recently kicked off pilot projects to install solar windows and solar building wrappings to demonstrate their potential widespread use in County buildings and, possibly, building codes.³⁸

Other examples abound.³⁹ The new County LEEDS Platinum-certified government office building complex in Wheaton uses geothermal energy for heating and has numerous energy conservation features. The County contracted for and operates two non-interruptible microgrids incorporating renewable energy generation features for public safety and correctional facilities, including a solar generating structure over parking lots at the Public Safety Building in Gaithersburg. This type of ground-level electric energy generation and solar siting opportunities

³⁶ <https://www.montgomerycountymd.gov/dgs-oes/AboutUs.html>.

³⁷ *Id.*

³⁸ Community Choice Energy Town Hall Webinar, November 16, 2020; <https://drive.google.com/file/d/11960jdm1TaadvvtT2TbhmkpZ12us8zqk/view?usp=sharing>.

³⁹ <https://www.montgomerycountymd.gov/dgs-oes/AboutUs.html>.

on parking garage rooftops directly support the move to electrified vehicles - vans, automobiles, scooters and bicycles.

Much larger County-sponsored solar projects received final approval on December 8, 2020. Following a *competitive procurement*, the County selected a solar developer to provide a total 6 MW of power on a capped 16-acre portion of its Oak Landfill. This includes a 2 MW solar project tied to a County Power Purchase Agreement, as well as two Community solar projects of 2MWs, each to benefit low income County residents.⁴⁰

These types of County-sponsored industrial solar projects create an enormous benefit to the County's low income residents. They can participate as subscribers in these 4 MW of solar generation as Maryland Community Solar subscribers and receive the County-*negotiated* 25% discount off the utility tariff rate charged on their utility bill. This discount is much more favorable for County residents than the energy pricing they will receive under any privately-sponsored, non-competitive projects built under the proposed ZTA.

In contrast, although Maryland's Community Solar Pilot Program is cited as being beneficial to low income residents, the proposed ZTA simply does *not* require that solar projects in the Reserve will be subject to those Program rules. Those purported benefits will not occur unless solar developers decide adopting a Community Solar program is more profitable than other alternatives under the ZTA.

However, even if a developer chooses a Community Solar project, the proposed ZTA does nothing to ensure any low income or other residents will receive utility bills credits that offset the subscription fees they must pay to the project operator, i.e., a net cost benefit. Such projects are far less beneficial than the 25% discount off utility tariff charges for low income residents in the County's recent *competitive* solar procurement at the Oaks Landfill.

The Oaks Landfill project also illustrates the potential for solar development on County brownfields and other compatible properties. That landfill has over 150 additional acres of "capped" land included in an overall footprint of 545 acres. Projects on brownfield or degraded land allow the County to use "brownfield" land within its own boundaries for renewable energy generation without compromising critical values and objectives such as local farming and food production.

The County has additional opportunities. Its Parks Department built two industrial-scale solar pilot projects on compatible Parks properties as part of its Sustainability Program. Ground-

⁴⁰ <https://www.montgomerycountymd.gov/DGS-OES/SP-OaksLandfill.html>. The Oaks Landfill in Laytonsville is owned by the County and is a closed and capped landfill. The landfill is the responsibility of the County's DEP, Recycling and Resource Management Division. The Oaks Landfill also generates electricity using methane gas naturally produced by the site. The Oaks Landfill totals approximately 545 acres, which includes a capped footprint of 170 acres spread across four parcels. In September 2019, the County issued a Request for Energy Proposals for the Solar Project. The County is installing a large scale ground-mount solar system on top of the closed cap. The 6 MW system is the largest solar project on County property. It will generate 11.4 million kilowatt hours of electricity each year – enough to power 930 homes. The solar power is expected to reduce greenhouse gas emissions as much as taking 1,740 cars off the road.

mounted solar arrays generating 2.5 MWs were installed and now operate at Rock Creek Regional Park and South Germantown Recreational Park under *competitive* Power Purchase Agreements with a solar vendor.⁴¹ Those agreements provide substantial cost savings to the County.⁴² These two Parks Department projects were among 32 “finalist” projects identified after a study of potential solar sites.⁴³

Other renewable energy projects have been built or are planned on County school or other owned- or controlled- properties, many of which have large rooftops and parking lots.⁴⁴ A solar-covered school parking lot not only generates electricity, it daily reminds the community that renewable energy projects are necessary and feasible.

Private Community Solar projects *outside* the Reserve are also underway but not at the pace seen in other urban and suburban areas. For example, the Planning Board recently approved an industrial-scale Community Solar project on undeveloped land outside the Agricultural Reserve. The 2 MW Community Solar project is located on RE-1 zoned (rural estate) land within the Upper Rock Creek Areas Master Plan area.⁴⁵ Turning Point, a Colorado-based Big Solar proponent of the ZTA, is the project’s developer. If inexpensive land in the Reserve is suddenly available for similar but more profitable projects, such developers will have little incentive to develop projects on suitable impervious surfaces and other locations outside the Reserve.

The County also has a large solar generation opportunity at the Dickerson, Maryland facility that was retired from coal-fired generation service last summer. ZTA proponents simply assert that the 350 or more acres of industrial-zoned land at Dickerson cannot readily be developed with solar because three stakeholders - the County, PEPCO and the plant owner - would have to negotiate a contract to achieve that goal, a task too difficult.⁴⁶ A rational solar siting strategy would first look to such industrial solar development on “brownfield” land rather

⁴¹ <https://www.montgomeryparks.org/caring-for-our-parks/sustainability/>.

⁴² *Id.*

⁴³ http://www.montgomeryplanningboard.org/agenda/2015/documents/050915-mcpbmemo-solarfarms_item3_001.pdf

⁴⁴ <https://www.montgomeryschoolsmd.org/departments/facilities/greenschoolsfocus/default.aspx?ID=622876>

(“Over the past decade, Montgomery County Public Schools (MCPS) has continued to develop solar power purchase agreements (PPAs) for on-site renewable energy generation. In 2008 and 2009, MCPS began hosting large-scale rooftop photovoltaic systems at eight schools, with 1.3 megawatts of installed capacity. In 2015, rooftop solar photovoltaic systems were installed in four schools with additional capacity of 1.7 megawatts. MCPS is developing additional solar PPA installations at five more schools, with an added capacity of 1.4 megawatts. As a result, MCPS is a leader among Maryland school districts in hosting net-metered solar power purchase agreements, with an estimated 4.4 megawatts of installed capacity by the end of 2018. The 17 school sites with photovoltaic systems are projected to produce an annual capacity charge cost avoidance of approximately \$290,000. MCPS is committed to purchasing additional solar PPAs that provide positive financial incentives for the development of local solar PV arrays. MCPS is particularly interested in the potential of aggregate net metering using off-site solar PV systems.”)

⁴⁵ Montgomery County Planning Board Resolution, MCPB No. 20-057, August 10, 2020.

⁴⁶ Annotated Technical Analysis – Zoning Text Amendment (ZTA) 20-01 (Sierra Club, Maryland Chapter and Montgomery County Group)(undated).

than dismiss it out-of-hand. Indeed, Montgomery County is enthused about the Dickerson solar opportunity and intends to pursue it.⁴⁷

To the extent private large scale solar development is not occurring on the County's impervious surfaces and other urban-suburban locations at the same pace as in comparable jurisdictions, integrated siting and economic analyses can identify the root causes. Large commercial structures, especially low-rise buildings and warehouses, are productive sites elsewhere. For example, in 2018 solar warehouse projects were completed in East New York that produce over 1 MW of Community Solar generation while providing urban subscribers a substantial price discount.⁴⁸ As a priority, all branches of County Government should examine what it needs to do further, considering the (recently renewed) federal and state subsidies, to incentivize solar installations on residential and commercial roofs, large parking lots and other impervious or disturbed surfaces within the County.

As important, for potential solar projects in the County and elsewhere, a nationally-proven renewable energy opportunity is on the near horizon. The County's state representatives sponsored pending Community Choice Energy ("CCE")⁴⁹ legislation for a Montgomery County pilot program.⁵⁰ CCE Programs that allow local governments to effectively *aggregate* government, commercial and resident demand for energy successfully operate in California, Massachusetts, Illinois and other states.

These CCE Programs provide electricity users cost savings derived from aggregated purchasing power and competitively awarded Power Purchase Agreements. They benefit from the technical and administrative expertise needed to plan and communicate clear renewable energy options to residents and other users. The Program allows the County to administer a clean energy program available to all its users while eliminating ambiguous or misleading pricing and contract terms. The programs use "profits" from operations to make clean energy affordable and further incentivize clean energy utilization.

For example, in California: "[t]here are currently 23 Community Choice Aggregators (CCAs), also known as Community Choice Energy (CCE) programs, serving more than *10 million customers* in over 170 counties, cities and towns . . ."⁵¹ The City of San Jose, California – with a population similar to Montgomery County – began operating its CCE program in 2019. It created San José Clean Energy ("SJCE"), San José's new electricity supplier, providing residents and businesses with cleaner and cheaper energy. SJCE has already made sufficient competitive purchases of wind and solar energy to power 265,000 San Jose homes.

In leading the way in Maryland, the County's CCE Program will create the best prospect for a rapid and efficient transition of the County's user base to renewable energy at substantial

⁴⁷ Community Choice Energy Town Hall Webinar, November 16, 2020; <https://drive.google.com/file/d/11960jdm1TaadvvtT2TbhmkpZ12us8zqk/view?usp=sharing>.

⁴⁸ <https://www.solar1.org/comes-community-solar/>.

⁴⁹ Also called Community Choice Aggregation.

⁵⁰ Community Choice Energy Town Hall Webinar, November 16, 2020; <https://drive.google.com/file/d/11960jdm1TaadvvtT2TbhmkpZ12us8zqk/view?usp=sharing>.

⁵¹ <https://sanjosecleanenergy.org/>. (emphasis added)

cost savings. Solar industry lobbyists have not addressed the transformative role of a CCE Program in combatting climate change. The industry naturally prefers the enhanced profits from accessing inexpensive farmland in the Agricultural Reserve rather than competing in a County CCE Power Purchase Agreement process that provides County energy users lower renewable energy prices and a quicker mass transition to renewable energy.

As discussed above, proponents of opening the Reserve to private industrial solar installations dismiss offhand the County's renewable energy initiatives, and energy conservation and carbon sequestration opportunities.⁵² Those general assertions lack detailed economic feasibility and siting support specific to the County, and disregard the County's substantial progress in developing renewable energy sources to date.

Critically, they ignore the fact that renewable energy generation is a regional (rather than local) resource that supplies power to a regional power grid. The County and its users can best support the growth of regional renewable energy generation resources through aggregated purchase commitments for renewable energy as provided, for example, in past County-sponsored projects and a Clean Choice Energy Program.⁵³

The County's progress on its transition to renewable energy will be advanced by further-defined Smart Growth Solar measures based on the County's unique conditions and opportunities.⁵⁴ The goal should be the optimal, achievable combination of renewable energy measures to advance the County's energy sustainability goals, while providing substantial cost benefits to County energy consumers, especially low income residents.

In contrast, as shown below, the proposed zoning amendment offers only a continuation of the misleading, variable pricing practices Big Solar relies on to boost profits at the expense of consumers' efficient transition to renewal energy.

Myth 3: The proposed zoning amendment will ensure County residents can access solar energy at an affordable or discounted price under Maryland's Community Solar Program: Contrary to proponents' claims, the proposed zoning amendment fails to ensure that County residents will benefit from any opportunity to access solar energy produced in the County at a reasonable cost under Maryland's Community Solar Pilot Program. The ZTA's purported access to the Maryland Community Solar Program energy and cost benefits is illusory.

⁵² Letter from Sierra Club Montgomery County, Maryland, dated February 28, 2020, to County Council.

⁵³ There are other renewable energy generation opportunities including geothermal.

⁵⁴ The Chesapeake Conservancy recently published a solar siting methodology for Baltimore City and Baltimore County finding that: "The key land use concerns regarding ground-mounted utility-scale and community solar are the loss of prime farmland and adverse environmental impacts such as loss of forest, wetlands, or other ecologically important areas. The loss of prime agricultural land threatens Maryland's agricultural economy and food production capacity. Important work has been done in recent decades to stem the loss of farmland to housing development, and now many fear a new threat of solar sprawl will compound the pressure to convert productive lands to other uses." *Report: Maryland Can Meet Renewable Solar Energy Goals through Wise Land Use*, <https://www.chesapeakeconservancy.org/2020/10/20/report-maryland-can-meet-renewable-solar-energy-goals-through-wise-land-use/>. See full report at <http://www.chesapeakeconservancy.org/wp-content/uploads/2020/10/CC-Report-Solar-Siting-Methodology-FINAL.pdf>.

First, County residents currently can purchase wind and solar energy credits (“RECs”) to offset their utility bills through third party resellers, including ZTA proponents. The proposed ZTA does not add to those reseller offerings now available to County residents, and it does not prevent third party resellers from purchasing solar energy credits from Reserve projects and then reselling them to County residents.

Unfortunately, this will only perpetuate what the non-profit Abell Foundation calls the “dysfunctional” third party reseller market in Maryland that leads to inflated energy prices for residents of 11-16% percent over standard utility offerings.⁵⁵ Indeed, through direct marketing of variable rate offerings to low income and other Maryland residents,⁵⁶ Big Solar proponents of the ZTA, realized prices as high as 60% over standard utility offerings.⁵⁷

Some of these offering are marketed as a *premium* renewable energy product sold under what have been called “bait and switch” contracts whose introductory rates can quickly escalate.⁵⁸ Energy produced under the proposed ZTA will feed into a regional grid that will continue to enable resellers to take advantage of consumers with confusing contract “small print” aimed at enhancing profits rather than a consumer’s transition to renewable energy.

Further, the proposed ZTA is touted as providing the same solar generation benefits to residents who cannot utilize residential rooftop solar. It does not do so. Residential rooftop solar allows the building owner to consume its own roof-generated electric power when the system produces sufficient energy for the dwelling and also earn utility bill (REC) credits for excess (non-self-consumed) generated energy it supplies to the electric power grid.

Resident subscribers to any Community Solar Program projects in the Reserve will not directly consume the generated solar energy.⁵⁹ They would receive “virtual” energy credits

⁵⁵Laurel Peltier and Arjun Makhijani, Ph.D, *Maryland’s Dysfunctional Residential Third-Party Energy Supply Market: An Assessment Of Costs And Policies*, Abell Foundation, December 2018, Executive Summary, p. 3 (“But from 2014 to 2017, Maryland households have been paying tens of millions of dollars more per year in aggregate to third-party electricity suppliers—about \$255 million more in all than if they had stayed with their utility’s supply offer. This adverse outcome for consumers, despite a large number of suppliers, indicates that Maryland’s third party supply residential market has become dysfunctional.”)

⁵⁶ *Id.*, “Some marketing practices to low income households in Baltimore appear to be similar to those condemned by the PSC in 2014.”

⁵⁷ Laurel Peltier, *MD’s Deregulated Energy Supply Results*, August 20, 2020, p. 11. Laurel Peltier, *MD’s Deregulated Energy Supply Results*, August 20, 2020, p. 11 (60% increase over standard utility prices cited).

⁵⁸ *Id.*, p. 10; <https://go.cleancoiceenergy.com/monarch/>(“. . . Community solar offers up to 20 years of bill credits with your subscription to a community solar farm. *The subscription price is subject to change each month and is not regulated by the Maryland Public Services Commission. The value of your bill credits is not guaranteed and may increase or decrease over the term of the Agreement based on your utility’s rates. Savings are not guaranteed.* You may be subject to an early termination fee of \$200. *Your purchase of bill credits helps support community solar development in Maryland* and the environmental attributes of the solar energy production will be retained by the Owner of the farm. Limited to qualified applicants. *Terms and conditions apply and are subject to change.* Review the Subscription Agreement for additional details.”). (emphasis added)

⁵⁹ This does not apply to residents of a farm or other property on the solar installation site (accessory use) that draw power from the array. The current zoning allows such *farming accessory* uses, and the proposed ZTA allows an increase to 200% in the maximum amount of non-farm site consumed energy. This “farm accessory” generation supports farming directly albeit with smaller arrays generating less than 2MWs.

(RECs) that can be used to offset their electric utility bill. The availability of those credits is touted as a compelling reason to abandon the County's commitment to preservation of Reserve farming.

However, the proposed ZTA does *not* require all projects in the Reserve to be Community Solar program projects under Maryland's regulations. Those solar developers can readily install solar facilities under the ZTA's other authorities, and sell that energy to utilities, businesses or resellers. This will allow Big Solar to maximize profits earned from the sudden availability of protected Reserve farmland.

Even if the ZTA did mandate Maryland Community Solar projects, those Program rules fail to assure any level of participation by County residents or any cost benefits to them. Community Solar developers have the option of selling the generated energy directly to the interconnecting distribution company for the subscriber's service area; or they can rely on subscription payments made by resident subscribers in return for the utility bill REC credits each subscriber receives for its share of the generated energy.⁶⁰

Community Solar subscribers only receive a net energy cost savings if those credits are greater in value than the subscription contract payments the user makes to obtain the credits. But there are no significant price assurances in the subscription contract. As one industry ZTA proponent explains its Community Solar pricing:

The subscription price is subject to change each month and is not regulated by the Maryland Public Services Commission. The value of your bill credits is not guaranteed and may increase or decrease over the term of the Agreement based on your utility's rates.⁶¹

Even more troublesome, subscribing low income residents (a supposed beneficiary of Community Solar) can receive utility bill subsidies under a Maryland financial assistance program. But the subscription price charged by the solar company is unregulated and solar energy is marketed as a *premium* product benefiting the environment to justify higher prices.⁶² . Low income subscribers can lose the benefit of the state financial assistance due to increasing subscription contract payments. Again, there is no assurance of net energy savings, and the state may be subsidizing solar company profits.

Indeed, the Maryland subsidy programs for low income residents do not preclude premium energy pricing for Community Solar subscribers or other consumers. Maryland legislators have called out alleged abusive pricing practices of retail electricity providers.⁶³

⁶⁰https://www.pepco.com/SiteCollectionDocuments/Guide%20to%20Community%20Solar%20in%20Maryland_Pepco.pdf.

⁶¹ See fn. 58 above at <https://go.cleancchoiceenergy.com/monarch/>.

⁶² See fn. 58 above.

⁶³ As one Maryland legislator reported after the 2020 legislative session: "*Protecting Consumers – Retail Energy Suppliers* - In the past two years, the number of calls I receive from constituents complaining about door knocks from retail energy salesmen continues to increase. This year, I was proud to sponsor HB1224/SB685 to ensure that low-income Marylanders who receive energy assistance from the state are not being taken advantage of by these third-party retail supply companies. This legislation would follow the lead of several other states that have created a way to ensure that only third party suppliers with electricity/gas products that cost less than standard offer service

Those providers can inflate prices paid by consumers to erase the benefits of Maryland financial assistance to low income residents.

Further, not only may the subscriber's payment increase each month, the subscriber's option of cancelling the contract carries a \$200 termination charge.⁶⁴ Low income subscribers who cannot afford substantial unanticipated expenses will find themselves locked into contracts whose prices can escalate at the provider's discretion.

In short, the proposed zoning amendment does not provide the purported benefits. It does not allow County residents to directly access solar power at an affordable price. The generated energy feeds a regional grid with only a tiny fraction being used in the County. The solar industry's pricing of industrial solar generation is variable and is not fixed at a user-favorable level or tied to costs of production. Absent real competition, solar providers may charge consumers a variable energy price that can escalate over time without explanation or cause, enhancing industry profits. There is no reasonable expectation of net energy savings on a resident's utility bill from solar energy production in the County's Reserve.

Much more beneficial alternatives exist. County agencies and businesses *already* can and do purchase the same type "access" to renewable energy, including from Big Solar entities lobbying for industrial solar in the Reserve. Larger entities such as the County and Amazon purchase that access through heavily negotiated, *competitive* Power Purchase Agreements that produce customer-favorable renewable energy pricing and business terms. Small businesses and residents need to be able to obtain the same advantages through competition. Those game-changing opportunities are on the horizon.

As explained above, the County is pursuing a Community Choice Energy program modeled after successful programs in other states. The Program aims to speed the transition to renewable energy for all electricity users. It provides meaningful alternatives for *all* County electricity consumers, and special benefits to low and moderate income residents, to transition rapidly to renewable energy sources while reducing their electric utility bills through a key element sorely lacking in the proposed ZTA – *effective price competition*.

Myth 4: The proposed zoning amendment's insertion of industrial solar in the Agricultural Reserve is the best and necessary alternative to spur the County's transition to renewable energy sources: Inserting industrial solar in the Agricultural Reserve is not the best or necessary alternative to quickly transition county consumers to renewable energy sources. In recent years, our County has adopted substantial renewable energy and conservation measures informed by its own experience and the experience of other local governments and large corporations. As described above, it made large renewable energy purchase commitments to meet 100% of its own energy needs, executed its own large scale renewable energy generation projects and adopted numerous energy conservation measures.

can take energy assistance funds...another way to ensure that we are using taxpayer dollars (via energy assistance programs) most efficiently and responsibly! This bill passed the Senate but we ran out of time to consider it in the House. I will work hard to pass this bill next year." <https://www.brookelieman.com/2020session/>.

⁶⁴ See <https://go.cleanchoiceenergy.com/monarch/>.

The County's planned Community Choice Energy Program offers more effective means to rapidly transition all segments of County energy users to renewable energy at affordable prices. It substantially benefits low and middle income users. This Program will not destroy farms and food production in the Reserve.

In contrast, under the proposed ZTA, Big Solar can resell the *virtual* REC credits from Reserve projects at inflated renewable energy prices that offer no comparable advantages to County energy users. Or it can offer those REC credits under Community Solar Program subscription contracts that allow vendor escalations of energy prices. For low income, state-subsidized energy users this reduces or eliminates any subsidy benefits at taxpayer expense. In short, this ZTA enables Big Solar to maximize profits while deterring County residents' transition to renewable energy.

In sum, the County has viable alternatives to support renewable energy programs that will not destroy farms and food production in the Agricultural Reserve while speeding our transition to renewable energy. Our County is on an efficient path to provide its residents and businesses the financial benefits of renewable energy while combatting climate change. Caving to Big Solar's campaign to industrialize Montgomery County's heralded Agricultural Reserve and destroy its farm production is poor public policy, unnecessary and unwise.

Action in the Public Interest Urgently Needed:

Montgomery County Councilmembers, Other County Officials Must:

- ***Sustain and Expand Productive Farming and Healthy Food Supply in the Montgomery County Agricultural Reserve***
- ***Deny Proposed Zoning Change Allowing Industrial Solar in the Reserve and Recommit to the Permanence of Farming in our Agricultural Reserve and Maintaining Low Price Farmland for Food and Fiber Production***
- ***Promote an Efficient Transition to Affordable Renewable Energy Through Smart Solar Development Outside the Agricultural Reserve and Adoption of a Community Choice Energy Program***

In January, 2021, the Montgomery County Council, in exercising its land use decision-making authority, faces a stark choice. Approval of the proposed zoning change – Zoning Text Amendment 20-01 - would allow large industrial solar arrays in the Agricultural Reserve, a move the farming community believes would destabilize the affordability and permanence of workable farmland. The choice before the County Council on this proposed zoning change is abandonment of the long-standing County vision and support for our nationally acclaimed Agricultural Reserve - a consequential decision about the future of food production and food security in our County, the preservation of clean water supplies, and the ability of soils and ecosystems to sequester carbon and provide climate resilience. The Actions described here are offered to guide Councilmembers in acting as Stewards and Trustees of the Agricultural Reserve.

Action 1: Recommit to the County’s wise vision of the Agricultural Reserve: support for sustained and expanded healthy food production in its agricultural economy, improved food security and resident health, and new farm job creation and training opportunities.

A renewed County vision and commitment to enhanced food production in its set-aside Agricultural Reserve will improve food security and residents’ health, and create new farming-related jobs and training opportunities. Rather than undermine its farming economy, the County Council should further support increased food production in the Reserve through expansion of existing farms, continued focus on healthy food crops, and entry of diverse new farmers seeking to reconnect to the land and feed fellow residents. Barriers to farming expansion and entry, especially escalating land and land lease prices, must be prevented, and training in best practices for productive, sustainable farming should be continued and enhanced.

Connections to our food banks, schools, grocery stores, restaurants, and other distribution networks for healthy food products should be expanded. The County should actively promote its farm-to-table economy and farming’s contributions to the health and wellbeing of its residents and local economy.

County Government must remember the lesson taught in the Master Plan. The basis of the Agricultural Reserve and Open Space Master Plan – supporting the *permanence* of farming, and avoiding the “Impermanence Syndrome” -- remains the same today as when it was written in 1980. Its dire warning resounds: *Farmers’ perceptions that agriculture is short-lived in an urbanized County will doom its continuation.* Farmers will not choose to expand food production, if they believe County leaders do not value agriculture and see signs that the farm-supportive environment of the past 40 years is eroding.

Just as the solar land boom affects existing farmers, it will create barriers for new and diverse farmers. As of January 2021, 40 farmers from around the region and the world, have pending applications in the *Land Link* program of Montgomery Countryside Alliance. *Land Link* matches farmers seeking to farm, with landowners in the Ag Reserve who have suitable land to rent. (<http://www.mocoalliance.org/land-link.html>) Over 500 acres of farmland in the Reserve are now being worked by farmers who found their land (and landlords) through *Land Link*.

As hopeful as this is, land affordability to farmers is key to farming’s sustainability, and the stability of land rents and long-term land leases are vulnerable to price shocks from incursions of deep-pocket interests. Early-warning signs in the form of farm lease terminations are already being experienced by farmers in the Reserve, as the County Council promotes the hand-over of land in the Reserve to solar industry interests through the zoning change it now proposes.

New and diverse farm entrants will not launch the farming operations they would like to locate in our County, if farming’s future here is questionable. Big Solar’s intense lobbying for the proposed ZTA, and its lucrative offers to landowners in the Reserve for land leasing contracts, fuel the prospect of widespread rent increases spurred by the solar boom. This direct threat to existing and new farmers’ bottom lines creates the perception that farming is no longer supported by Montgomery County. This is the “Impermanence Syndrome” eroding the foundation of a local farming economy the Ag Reserve is intended to prevent. That Syndrome must be avoided.

Action 2: For preservation of a healthy Agricultural Reserve, the County should deny the proposed zoning change quickly and definitively. The County should continue its policy of prohibiting industrial solar and limiting solar installations in the Agricultural Reserve to those strictly “accessory” to agricultural operations. It should take speedy actions to deter escalating land prices and maintain low price farmland in the Reserve.

The County should quickly and definitively reject the proposed ZTA. It should continue its zoning policy of prohibiting industrial solar and limiting solar installations in the Agricultural Reserve to those strictly “accessory” to agricultural operations. Failure to do so will fuel the Impermanence Syndrome, by gutting the extensive Master Plan preservation and zoning measures that help ensure the availability of low price farmland needed to support farming’s permanence.

The County should also take strong steps to reverse the damage done by the solar industry’s ZTA lobbying and its aggressive lease price escalation offers in the Reserve. Strong, unambiguous messaging of Master Plan policy continuity and farming permanence should be designed to bring

land and lease values back to pre-ZTA levels such that existing and new farmers will not be priced out of commercial farming in the Reserve.

Action 3: The County should aggressively pursue an efficient County-wide transition to affordable renewable energy sources. This should include enhanced County support for solar projects on suitable properties outside the Reserve that provide genuine cost benefits for energy users, and, on the energy consumption side, adoption of a robust Community Choice Energy Program offering affordable renewable energy to all County energy consumers.

The County should continue aggressive climate change measures including support for renewable energy development by private and public sponsors on suitable *non*-Reserve locations in the County and elsewhere. Incentives for development of renewable energy generation at suitable locations *outside* the Agricultural Reserve should be enhanced, and the County should continue to focus on additional projects built on “brownfield” land, impervious surfaces and other sites that produce genuine cost benefits for energy users.

The County should adopt and execute a Community Choice Energy Program incorporating *competitively-sourced* Power Purchase Agreements to leverage its aggregate energy *demand*. This is the best catalyst for a rapid and efficient transition of County’s energy users to renewable energy at affordable prices. The solar industry should be invited to support the CCE Program by *competing* for solar energy Power Purchase Agreements that provide County electricity users clear and beneficial prices.