March 3rd, 2020

Written Testimony for ZTA 20-01 – Solar Collections System – AR Zone Standards

Submitted by Denisse Guitarra, Maryland Conservation Advocate, Audubon Naturalist Society (ANS)

Dear Montgomery County Council,

For 123 years, Audubon Naturalist Society has inspired people in the DC region to enjoy, learn about and protect nature. ANS thanks the Montgomery County Council for the opportunity to provide written testimony for ZTA 20-01 – Solar Collections System – AR Zone Standards.

ANS shares and acknowledges current climate crisis need and urgency to reach the county’s and the state’s greenhouse gas (GHG) reduction goals. Maryland’s GHG reduction goals are to reduce 25% of its emissions by the year 2020, and 40% of its emissions by the year 2030\(^1\). Maryland’s Renewable Energy Portfolio Standard (RPS) states that “20% of Maryland’s electricity must come from renewable energy sources by 2022 including, 2% from solar energy”\(^2\). Montgomery County’s GHG reduction goals are to reduce 80% of its emission by 2027 and 100% of its emissions by 2035\(^3\). In order for the county and the state to reach these goals, Montgomery County must actively increase the amount of renewable energy sources to combat the global climate crisis.

Although reaching our GHG goals should be a priority in the climate crisis, it is equally important to acknowledge the Ag Reserve’s long history for air and water protection as well. ANS has been a longstanding supporter of the creation of Montgomery County’s Agricultural Reserve. ANS supports the use of solar facilities in ways that are compatible with, and not in conflict with, agricultural uses and natural ecosystem services. ANS does not oppose building solar energy in the Agricultural Reserve, but we very much oppose doing so without planning to protect the essential elements and values of the Reserve. And, before we look to the Ag Reserve, the county should work to maximize solar production on disturbed lands, brownfields, parking lots, rooftops, utility corridors, and other low-conflict lands.

\(^1\) Maryland’s Climate Change Program. Maryland Department of the Environment. Available from: https://mde.maryland.gov/programs/Air/ClimateChange/Pages/index.aspx
As we learned from our involvement in the Georgetown/Origis solar project, which sought to destroy 240 acres of pristine forest in Charles County, MD, solar farms must have proper solar siting protocols in place in order to minimize renewable energy vs. forests conflicts. If solar farms are installed in the Ag Reserve, these must be located in such way as to avoid converting existing viable agricultural farmland, avoid and minimize stormwater and wildlife impacts, and avoid and minimize the impacts to the people living and working there. After reviewing the proposed zoning amendment to the Montgomery County Zoning Ordinance, ANS would like the Council to take into consideration the following recommendations before moving forward with the approval of ZTA 20-01.

**Solar Siting Study**

We recommend that a county wide and Ag Reserve specific GIS mapping exercises be conducted in order to have a better assessment of the solar siting location across the county. A proper solar siting assessment should seek to avoid and minimize the impacts to local waterways, forests, wildlife and maintain the Ag Reserve’s agricultural heritage. Currently, there are numerous potential existing solar siting places such as commercial, industrial and institutional buildings, open parking lots, and residential areas. ANS and some of our environmental partners learned recently that DEP is working on completing a GIS mapping exercise of the Ag Reserve. The DEP should make this study publicly available, and the Council should consider DEP’s GIS mapping, as well as proceeding to conduct a county wide GIS solar siting exercise before deciding on and selecting the Ag Reserve for solar projects.

**County’s Climate Action Plan**

The County Executive branch is currently leading five citizens-based climate action working groups. The five working group findings were just presented at the Feb 27th, 2020 Climate Townhall. Now the County’s Climate Action Plan is just beginning its second phase, which involves having an outside technical expert team to continue the work started by citizens’ workgroup findings and to technically come up with a comprehensive new county Climate Action Plan. The final Climate Action Plan will then be presented to the Council by fall of 2020 and the Council is projected to vote on the County’s next Climate Action Plan by early 2021. With a pending Climate Action Plan in process and review phases, ANS recommends that the Council waits to have in hand the climate action plan before moving forward with ZTA 20-01.

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New County General Master Plan / Thrive 2050

The County’s General Master Plan is currently under revision. The final new General Plan is projected to be released by early 2021. We expect to see in the new General Plan that the Ag Reserve will continue to be highlighted for its role in producing food and fiber, supplying natural ecosystem services such as water and air purification for our region through maintenance of farms and forested land. The Ag Reserve also serves a large carbon sink through its role in regenerative carbon in the soil, and reforestation programs such as ReLeaf the Reserve, that plant new trees that sequester carbon and provide resilience against increased flood and drought risks. We anticipate that the new general plan will reaffirm and strengthen the Ag Reserve’s role and source in climate mitigation and adaptation, helping Montgomery County become a climate resilient place for all residents to live in. In addition, Thrive 2050 is predicated on understanding residents’ and stakeholders’ visions of the future of Montgomery County. In 2019, an Agritourism Study showed that the community of farming stakeholders were not in favor of zoning changes to permit additional solar beyond the 120% of personal use already allowed. Because the New General Master Plan is currently still in revision, ANS recommends that the Council wait for final review and approval of the New General Master Plan in April 2021 before moving forward with ZTA 20-01.

Community and Small-Scale Solar

The Ag Reserve has always been a model of local resilience, by providing food, fiber, and economic opportunities to Montgomery County and the Washington, DC region. Community solar is a specific type of solar ownership structure that keeps the financial and renewable energy benefits of solar within the community. If solar projects larger than the current 120% of personal use allowance were to come to the Ag Reserve, community solar ownership seems a natural fit. In addition to their local, communal ownership structure, community solar projects under the Public Service Commission pilot program must be smaller than 2 MW, which is about 10 acres in size. The current ZTA does specify that projects should be under 2 MW, but then goes on to essentially throw up its hands and defer to the PSC if an applicant wants to build a larger system. If a solar project is above 2 MW (and therefore needs a Certificate of Public Convenience and Necessity) from the PSC, then indeed as determined in the 2019

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Maryland Court of Appeals decision Board of County Commissioners of Washington County v. Perennial Solar LLC\(^\text{10}\), the PSC can have the final power over local county zoning law\(^\text{11}\).

But, the decision states that “local government is a significant participant in the process, and local planning and zoning concerns are important in the PSC approval process...they are a statutory factor requiring due consideration by the PSC in rendering its ultimate decision.” The County should not just open the doors to big, utility-scale solar projects in the Ag Reserve without carefully planning whether they are appropriate and where they might best be located. As written, the ZTA gives the PSC no guidance on what the County wants regarding solar zoning and so essentially opens the door to projects much larger than 2 MW by just going straight to the PSC, with no county input. Proactive planning has always been key to protecting the Ag Reserve, and it remains very much so in the case of solar development.

On behalf of ANS and our 28,000 members and supporters, we recommend that the Montgomery County Council waits for the completion of the New General Master Plan, the County Executive’s Climate Action Plan, and a countywide GIS solar siting study analysis before proceeding with modifications and approval of ZTA 20-01.

Sincerely,
Denisse Guitarr
Maryland Conservation Advocate at ANS
