

Wendy Nevett Bazil

We in Montgomery County are fortunate to have elected officials and career staff that are forward thinking and care deeply about the county and its residents. I feel grateful to live here. However, as wonderful a job as our officials do for us, I think it's important for us to always be examining our presumptions and not taking action on auto-pilot.

This is why I'm writing about ZTA 23-09, Farming-Incidental Outdoor Stays. I believe the thought behind it is a good one, and the attempt to support our local farmers is important. However, now is the time for the County Council to consider the Agricultural Reserve (AR) more purposefully and completely to better address farmer needs and the significant racial disparities that exist in the AR; indeed, a thorough planning review of the AR is overdue. We are protecting fully one-third of our county land via zoning and a goodly portion of that via easements; that demands that the protection be useful (and not harmful) to all the residents of the county or we should question why we perpetuate it. While I wholeheartedly support our farmers, this ZTA as written, perpetuates a racially and socially unfair system that moves us further from our community equity goals while simultaneously not doing enough to help our farmers.

I am not a farmer, nor do I live or work in the AR. I am a county resident, a licensed but currently inactive lawyer, and current graduate student in planning at the University of Maryland, doing independent research into Transferable Development Rights (TDRs) and equity in agricultural preservation and have been a long-time active participant in local organizations supporting the local food system.

I suggest that the Council either pause this ZTA or change it significantly, and authorize a new master plan of the AR. This would be an opportunity to have active participation of farmers, particularly small farmers, Black farmers, Latino/x farmers, new farmers, women farmers, LGBTQ+ farmers, immigrant farmers, as well regional residents and farmers who have been excluded from our AR. It would be an opportunity to engage with many residents of many backgrounds and economic means and from many parts of our county to see how they might be able to or want to interact with the AR, whether for work or leisure, and to see what barriers they might have such interaction. And it would be a chance to envision how the AR can and should play a part in our ongoing food system resilience. It would be a means for the county to hear from those in the county who don't always get heard.

Thrive 2050 only touched on the AR in the smallest of ways, reinforcing general support for the original stated purpose—agriculture—and expanding agritourism. There was no clear planning vision for the AR, and a master plan for the AR as an entity has not been done (although some small parts are included in other master plans) since it was created in 1980. A full planning process would allow the Council to address many issues: the challenges that farmers face making a living at farming, the challenges of land access in the county, the very important role farmers play in our region's ongoing local food resilience and how we can best support them, the future of TDRs, and, perhaps most importantly, the significant racial disparities identified by both the Office of Legislative Oversight (OLO) in its January 2023 report on TDRs and BLTS, as well as its Racial Equity and Social Justice Impact Statements on the instant ZTA and ZTA 23-08, and the County Office of Racial Equity and Social Justice (ORESJ) in its memoranda in response to

the County Executive's requests for supplemental appropriations to the FY22 and FY23 Capital Budgets for agricultural land preservation easements.

Although the OLO found that this ZTA would not have a significant impact on racial and social inequities due to the small number of farms that could make use of its provisions, I do believe that there are potentially significant racial impacts; though they might not be great in number they are important policy considerations regardless.

First, one of the challenges for all new farmers today, but particularly for Black and other farmers of color, is accessing land in the AR due to cost, so anything that could increase prices there would be relevant and a ZTA that could raise the price of land further would have racial impact. Should this ZTA remain as written and allow up to 10 units with indoor bathrooms, up to 4 nights a week, this could spur a host of hospitality establishments that look more like hip hotels than outdoor lodgings that are incidental to farming. We have already seen the unexpected boom in large-lot residential housing in the AR that has created significant competition for farmers looking for land.

In addition, to the extent that there are hobby farmers or other landowners who might nominally qualify and want to pursue this more lucrative use of their easement-bound land, it might compete with the Land Link rental program, which is an important avenue for new farmers (who are often farmers of color, women, and immigrant farmers) to acquire land to farm in the AR.

Further, this proposed ZTA also goes beyond the new state legislation on incidental outdoor stays. While on-farm stays and other agritourism activities can really help farmers, the relatively large number of units permitted by this ZTA could be more than a working farmer could really manage and would tip into hospitality/tourism. Likewise, the limit on number of days per week could limit a week-long farm stay in a yurt or tent as some farmers might find helpful in making ends meet. This goes to the need for a new Master Plan for the AR that considers these issues carefully after engaging small farmers. Any push for agritourism should be for the benefit of the farmers that are challenged making a living on-farm and should potentially benefit all residents of the county. Otherwise, it's simply a move to add lodging which will only benefit a small number of residents, potentially making the AR into a farm-themed park that only the wealthier among us can enjoy.

If the Council is open to allowing this much building and the number of people staying on a property under these terms, which impacts water and septic which are issues out there, there might be better ways to help the farmers--maybe an extra ADU with a long-term rental that requires less work on their part--and they should be consulted with some serious outreach.¹ In addition, to truly address issues of segregation in the AR, the county should look at the exclusion of farmers of color, pressing housing needs in the area, and the inequities of transportation access that limit who can work there and who can enjoy the open space.

Given the segregation of the AR, and given how much support farmers need to get started here and for their businesses to thrive, especially Black and Brown farmers, a ZTA that could permit luxury hipster hangouts should not be at the top of the list of zoning changes and probably

deviates from the stated purpose of the AR. I suggest that this County that so obviously values and prioritizes racial equity and support for all our residents has a duty to take the time to do this right, and in a way that honors the legacy of the Black residents who have been harmed and continue to be harmed by zoning. A new Master Plan would help achieve this goal.

Thank you for your consideration of this testimony.

Sincerely,

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