

Montgomery County Agricultural Advisory Committee (AAC)
Regular Meeting Minutes
September 17, 2024

1. The meeting was called to order at 7:01 pm.
2. Introductions

Committee: Ben Butler, Matt Lechliden, Jane Evans, Mike Protas, Russ Allnutt, Jeff Dowling, Ellen Gordon, Fred Lechliden, Amanda Cather, Debbie Tropp

Staff: Mike Scheffel, Mike Weyand, Natalia Salazar

Guests: Marcia Kingman, Jessie Vazquez, Margaret Chasson, Dale Tibbitts

3. Approval of the August 20, 2024, AAC minutes

Jane Evans introduced a motion to approve the minutes, Fred Lechliden seconded, and the motion passed unanimously.

4. AAC report for the Montgomery County Committee Evaluation and Review Board (CERB)

The CERB makes recommendations to the County Executive and County Council concerning the function, structure, staff impact, and effectiveness of certain county advisory boards, committees, and commissions. The County Code requires that every advisory board, including the AAC, produce a report describing why that board should continue to exist, and the deadline to submit this report is October 30, 2024. CERB members will also ask to meet with each advisory board and its staff in the near future, and will be working towards producing an Interim Report that will go to the County Executive and Council by mid-July 2025.

Debbie Tropp asked what the purpose of this reporting process is. Mike Scheffel replied that because the County has a large number of boards, committees, and commissions, it periodically reviews whether they are all necessary, given the amount of County staff time they require. Scheffel added that the County understands that the AAC and Agricultural Preservation Board are both important, active groups and that last time this reporting requirement was enforced was in 2015. He further stated that the OAG will complete the AAC report and share it with the AAC during the October meeting. Scheffel encouraged AAC members provide any language they would like to include in the report.

5. Office of Legislative Oversight (OLO) Report on the status of Transferable Development Rights (TDRs) and Building Lot Termination (BLT) programs – *No update since July 2024*

Throughout the course of three work sessions in June, the Planning Department presented to the Planning Board the same recommendations the department had presented to the OAG and agricultural community on how to increase the market for TDRs and BLTs through the

Incentive Zoning Update. At the conclusion, the Planning Board voted in favor of presenting these recommendations to the County Council. The Planning Department stated that the recommended changes to the TDR program would require the County Council to introduce a Zoning Text Amendment.

6. Solar projects generating over 2 MW in the Agricultural Reserve

A solar developer, Chaberton Solar, has applied to the MD Public Service Commission (PSC) to build two solar projects that will generate over 2 MW in the Agricultural Reserve. The first one, [Chaberton Sugarloaf](#) (Case No. 9726), is a 4 MW project proposed for approximately 16 acres of the 53 acres on 20507 Darnestown Road, Dickerson. The second, [Chaberton Ramiere](#) (Case No. 9733), is a 3 MW project proposed for approximately 11 acres of the 118 acres on 17600 Whites Ferry Road, Poolesville. These properties have Class 1 or 2 soils on 77.1% and 99.9% of their areas, respectively. The County Code, which allows for solar installations of up to 2 MW, does not allow them on Class 1 or 2 soils. However, because these two projects will generate over 4 MW, they are under the jurisdiction of the PSC, which only needs to give “due consideration” to local ordinance.

In addition to approval from the PSC, both Chaberton Solar projects need to undergo Mandatory Referral review from the Montgomery County Planning Department. Through this process, the Planning Department verifies whether the projects have met all regulations like the State’s Forest Conservation Law. Chaberton’s Mandatory Referral application for the Sugarloaf project was accepted by the Planning Department on July 1. The Planning Department published a report on this project on August 26 for the Planning Board to review at their September 5 public hearing. This report recommended denial of the Mandatory Referral application given that the project:

- i. Does not comply with the Thrive 2050 Comprehensive Plan for Montgomery County,
- ii. Conflicts with the goals of the 1980 Master Plan for the Agricultural Reserve,
- iii. Does not conform to the county’s solar zoning ordinance since it does not include a plan for agricultural production under the solar panels and is sited on prime agricultural soils, and
- iv. Has not yet met the requirements of the State’s Forest Conservation Law given that Chaberton has not submitted an approved Forest Conservation Plan.

In addition, the report stated the following:

- i. There is more than enough capacity in the AR zone and the rest of the county to meet the State’s renewable energy goals without going against the county’s solar zoning ordinance.
- ii. The Planning Department received over 140 public comments against this project.

After the Planning Board reviewed this report and the public comments submitted for the September 5 hearing, the Planning Department submitted the report and the Board’s recommendations to the County Council, County Executive, and PSC on September 13. The County Council and Executive will be intervening as parties of record in the PSC process and

will submit recommendations to the PSC by September 26. The County Council's draft letter to the PSC can be found [here](#).

The PSC is also holding public hearings on this project. The first hearing took place on July 10 and a second hearing will take place on October 8 at 6:30 pm at the Upper Montgomery County Volunteer Fire Department, 19801 Beallsville Road, Beallsville. Members of the public may sign up to speak at the hearing by sending an email to psc.pulj@gmail.com by October 7 at 12:00 pm. The live stream of the hearing will be available on the [Public Utility Law Judge Division's YouTube Channel](#). Written comments on the proposed project may be submitted electronically through the [Commission's Public Comment Dropbox](#) by October 9. All comments must include reference to Case No. 9726.

The PSC will hold the evidentiary hearing for the Sugarloaf project October 16 at 10:00 am and will subsequently make an official decision.

Ellen Gordon proposed that the AAC send a letter to the County Council and Executive thanking them for the letter to the PSC they have drafted and encouraging them to continue to defend the County Zoning Code. She also proposed sending a letter to the Planning Board requesting that they defend the Master Plan for the Agricultural Reserve and the Zoning Code's prohibition for community solar installations on Class 1 and 2 soils. Scheffel said that he will ask whether the AAC needs permission from the County Executive in order to send a letter to the Planning Board, given that it is a State-chartered commission. The group agreed with Gordon's first proposal and Scheffel stated that the OAG will draft a letter for the AAC to consider.

Scheffel added that the State legislature intends to introduce a bill this upcoming legislative session that will ease restrictions on the construction of community solar installations in the state. The Maryland Association of Counties has been working with State agencies and the solar industry on recommendations for a compromise bill. It currently appears that this bill would define "solar corridors" as the land in the county within two miles of transmission lines and would prevent the County from adding restrictions on community solar in those corridors beyond those of the State. This would mean that in those corridors Montgomery County would not be able to prohibit community solar projects over 2 MW or those on Class 1 or 2 soils. The bill would require that solar developers pay the County a certain amount if the project will be built in an agricultural priority preservation area, which in the county is the Agricultural Reserve. The bill would not preempt the restrictions on properties with a County or State agricultural easement.

7. Application for construction of a data center and battery storage area at the Dickerson Generating Station property

A private company, Terra Energy, has purchased the property containing the decommissioned PEPCO Dickerson Power Plant and has applied for approval to build a data center and battery storage area there. Part of the property is zoned as Heavy Industrial (IH) and the rest as Agricultural Reserve, but all of the proposed construction would occur in the IH-zoned portion. Both the data center, which falls under the Cable Communications System

use, and battery storage system, which falls under the Public Utility Structure use, are allowed as conditional uses in the IH zone, which means that they require approval from the Hearing Examiner.

At the Planning Board's September 5 meeting, the Planning Department recommended that the Board recommend approval of the application with conditions to the Hearing Examiner. Planning Department staff stated that the proposed use will not alter the character of the surrounding neighborhood, will not result in the loss of farmland, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties.

Ellen Gordon stated that data centers use a large amount of water for cooling and this project would draw water from the Potomac River, which could impact the county's water supply. Dale Tibbitts added that Terra has stated that all the water drawn from the river will be returned, albeit at a temperature of 2–3°F higher, so there will be no net loss of water.

8. Rustic Roads Advisory Committee (RRAC) vacancy

The RRAC still has one commodity farmer vacancy. The position has been relisted with an application deadline of October 30, 2024. Anyone interested can apply [here](#).

9. Other business

- Deer management

Mike Protas stated that he will meet next week with a staff member for State Delegate Linda Foley to discuss the impact of deer pressure on agriculture and how the Department of Natural Resources (DNR) can better serve farmers wishing to control the deer population on their properties.

Scheffel shared information about the Deer Cooperator's (sharpshooting) Permit, which allows a certified sharpshooter (the landowner or someone designated/hired by the landowner) to hunt deer on the property for which the permit was obtained. He said he would send a DNR presentation on deer management to the group. Ben Butler asked how many farmers in the county have this permit and Scheffel replied that only a few have it. Butler commented that it would be good to know if the requirements for the permit are preventing more farmers from obtaining one.

10. The next meeting of the AAC will be held on October 15, 2024 at 7:00 pm at the Agricultural History Farm Park.

11. Upcoming meetings and events:

Montgomery Soil Conservation District Annual Cooperators' Dinner: September 18, 2024

Poolesville Day: September 21, 2024

Montgomery County Farm Bureau Board of Directors meeting: October 1, 2024

Agricultural Preservation Advisory Board meeting: October 8, 2024

Montgomery Soil Conservation District Board of Supervisors meeting: October 11, 2024

12. The meeting was adjourned at 7:40 pm.

Ben Butler introduced a motion to adjourn the meeting, Debbie Tropp seconded, and the motion passed unanimously.