



**August 2, 2023**

**To:** **Frederick County Data Centers Work Group**  
**From:** **Sugarloaf Alliance**  
**Subject:** **Data Center Ordinance – Our View**

## **Overview**

### **The Immediate Challenge**

Frederick County is experiencing strong pressure from data center developers to approve increased data center installations on industrially zoned parcels and to re-zone other areas for further data center development.

### **The Opportunity**

The county is faced with challenges to its local control of land use decisions, its full range of land use and development options, and its ability to determine whether and to what extent data centers will benefit the county's overall fiscal and environmental sustainability and quality of life for current and future residents and businesses.

### **The First Step**

Halt consideration and approvals of data center site plans and related applications until the county enacts a comprehensive zoning ordinance for data center and other digital infrastructure development including design and location criteria.

### **The Rationale**

Frederick County, the state of Maryland, and many other areas are grappling with a purported data center economic juggernaut which has the potential to change the county's longstanding face from a community of farms, homes, businesses and greenspace into a data center mono-culture. New decision-making and regulatory tools are needed to analyze the proposals' costs and benefits, make durable and balanced decisions, and monitor and regulate data center design, construction, operations, management and decommissioning.

### **The Need for Face Time**

As an essential part of the data center decision process, and before taking action, county officials should commit to visit modern, latest generation data center sites in rural, suburban and urban settings.

## **Zoning**

- All other land uses are rezoned through area master plans where local circumstances can be carefully considered. Data center sites should not be handled differently.
- In order to avoid data centers' negative impacts, the county should proactively determine appropriate data center locations at the zoning stage rather than being reactive case-by-case to data center proposals. Data center sites should be located on industrially zoned land as established by area master plans rather than piecemeal rezoning requests.
- Any effort to comprehensively rezone areas throughout the county for data centers' demands or needs is likely to create the same problems created in 2008 when the County Commissioners tried to rezone the entire county at one time. That unsuccessful effort left the county to inherit a tsunami of residential development. Without adequate controls for data center development, the county could create a similar tsunami of data center development.

## **Questions**

### **What are the actual costs of data center development to the county?**

- **Direct costs** include extension and expansion of water, sewer and power supplies.
- **Indirect costs** include:
  - Loss of development sites and options for other businesses that offer county residents significant numbers of well-paying jobs and offer the county significant tax revenues.
  - Increased costs of stormwater control due to increased impermeable surfaces, and other environmental and sustainability costs including degraded waterways and loss of forests and agricultural land.
  - Added costs of specific redevelopment and monitoring issues for EastAlco brownfield site.
  - Data center development, including energy and water needs, can be expected to significantly impact, even undermine, important county and state climate change and sustainability goals.

### **What are the actual benefits to the county?**

- After subtracting county and state (initial and renewable) tax and other incentives and grants unique to data center developers, the projected net tax revenue from a proposed project over the probable life of the center must be determined at the application stage and must significantly exceed the direct and indirect costs to the county over the lifetime of data center equipment and operations.
- Data center developers promote county benefits including low impacts on local schools and roads, due to few employees requiring those public services, as well as increased tax revenues to pay for local capital and operating costs, including roads and schools.
- However, in 2020 Maryland enacted the Data Center Maryland Sales and Use Tax Exemption Program providing renewable exemptions from taxes on business personal property including data center equipment which constitutes the bulk of data center investment and which is not manufactured and purchased locally.
- Virginia and other states do not have similar data center tax exemptions so the tax revenue benefits promoted by data center developers are much greater than for Maryland and Frederick County.
- Frederick County has not yet conducted and released an actual cost/benefit analysis of data center development.
- Given that the county's 2022 estimated taxable assessable base was \$38.6 billion and the Amazon data center investment proposal was reportedly \$30 billion, the county needs to update its tools and procedures for analyzing and managing such outsized proposals and industrial developments

to prevent them from dominating and overturning the county's balanced land use plans, priorities and decisions.

#### **What are the actual impacts for current and future county residents and businesses?**

- Data center projects will offer local internet users improved data transmission speeds, security and redundancy **only** if local and regional service providers choose to connect to the data centers' fiber optic networks, the costs of which will increase the local users' service fees.
- Given data centers' immense water and power needs, local water and power costs can be expected to increase as power providers invest in added capacity.
- Data center security lighting will further increase night time light pollution that disrupts human and environmental circadian patterns.
- Data center noise levels will strongly impact and even drive away surrounding residents, businesses, farm livestock operations, and visitors to historical and other tourism sites.

### **Essential elements for updated Frederick County Data Center Ordinance**

#### **How will the county administer the Data Center Ordinance?**

- In light of the extraordinary community impacts experienced by other US locations, we recommend an enhanced Adequate Facilities Ordinance, to be administered by a new county division specifically devoted to data center plan review, monitoring, and regulatory enforcement.
- Costs for the new division should be funded by a data center user charge.

#### **How will the county ensure that the data center application, permitting, construction, operation and monitoring processes - as well as actual costs and benefits - are transparent to the public?**

- The county must commit to transparency at the start and throughout the process.
- Remove "fast track" development incentives for data center development proposals due to their extraordinary community impacts.
- Post all data center proposals, development information, incentive information, and cost/benefit analyses on the county website.
- Conduct community meetings and public hearings on each data center project - prior to approvals – in order to identify specific community concerns and issues.

#### **What information, analysis and conditions will be required for data center applicants to ensure their understanding of and compliance with county regulations and environmental covenants?**

- Require design, construction, operations and upgrades to adhere to industry best practices including renewable power sources, noise suppression, emergency power backup generators, cooling water re-use, impermeable surfaces and stormwater runoff control, waterway protection, visual impact and screening, and tree retention and protection.
- Require realistic analysis of projected noise levels, lighting impacts, and electricity and water usage.
- Remove development loopholes that may allow data center developers to circumvent air pollution and other environmental limits by replatting and separating properties with an intervening parcel.
- Require data center owners to include, with their development proposals, decommissioning agreements that include bonding and user charges to assure that money is available to fully manage termination of data center facility operations and to expedite re-use of data center properties and locations.
- Require initial data center developers and owners to adhere to all county and state regulations regarding construction, management, operations, decommissioning and other agreements and responsibilities, and to fully transfer those responsibilities to any future owners.

- Establish data center tax to cover the costs to the county of unanticipated and unintended consequences.
- Require data center applicants to include estimated amount of construction and equipment expenditures in Frederick County, Maryland, the United States and elsewhere.

### **What will the county's enhanced data center evaluation involve?**

- Require the county to conduct independent analysis of short- and long-term fiscal costs and benefits of data center development proposals before approvals. Address who pays the costs and who gets the benefits.
- Monitor and enforce adherence to conditions, added jobs, long term viability and other performance requirements associated with county and state business development benefits, grants, and tax incentives.
- Evaluate, with input from local power providers and grid operators, the current adequacy of electric power supply capacity, sizes and locations of added substations and power lines to serve data centers, and the impacts these may have on county communities and on power supplies and costs to business and residential customers.
- Evaluate impacts of data center water supply needs and usage on county residents' and businesses' water supplies and costs, water treatment costs and impacts to water volume in surface waterways, and potential impacts on groundwater recharge and availability.
- Permit data centers and other industrial land uses including solar arrays only on soil types 4 and above, to retain and preserve the county's most productive agricultural soils for farming activities.
- Evaluate comprehensive data center environmental impacts including air quality, water quality, noise levels and suppression, greenscapes and viewscapes.
- Retain non-industrial zoning along data center fiber conduits and loops to limit future piecemeal rezoning and data center sprawl.
- Evaluate need for additional county 24/7 monitoring and enforcement staff, through the enhanced Adequate Facilities Ordinance handled by a new county division funded by data centers, to monitor and enforce adherence to county and state regulations regarding noise, emissions and air quality, stormwater and water quality, and forest protection.

*The Sugarloaf Alliance is a 501(c)3 organization representing over 650 stakeholders in south Frederick County. Working with volunteers, civic groups, and local, state, and federal agencies, the organization's primary goal is to preserve the unique character and serenity of the area for future generations.*