

February 23, 2026

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Ave
Rockville, MD 20850

Subject: **Written Testimony - Opposition to ZTA 26-01 and Proposed Amendments to Bill 4-26**

Dear President Fani-González, Vice President Stewart, and Members of the Council,

I am providing this written testimony to convey my **opposition to Zoning Text Amendment (ZTA) 26-01** and to urge you to amend **Bill 4-26** prior to its passage. The Council must invoke a comprehensive moratorium on data center development to provide community protections and sufficient time for meaningful analysis and recommended protections. Furthermore, the Council must establish ironclad safeguards. It is imperative that any future reports and recommendations from the Task Force on Data Centers incorporate the following rigorous standards to protect the residents, infrastructure, and environment of Montgomery County.

1. **Land Use and Zoning Protections**

The current grouping of data centers with "Communications Facilities" is a misguided approach that ignores the unique industrial scale and scope of adverse impacts inherent to these projects. The data processed by data centers is frequently described as a "raw material" or "the new oil" of the information age.

- **Distinct Zoning Category:** Data Centers must have a unique zoning classification as a type of Heavy Industrial (IH) zoned use, separate from all other use categories, added to the Zoning Ordinance as Sec. 3.6.10. This classification must strictly limit Data Centers to land that is zoned heavy industrial (IH) and establish them as authorized only as **Conditional Uses**. And, similar to the heavy industrial zone use in Sec. 3.6.5 (Excavation, Mining), a Conditional Use that is granted for Data Centers, should be valid for a maximum of 3 years, with the opportunity for the use to be renewed by the Hearing Examiner.
- **The Sensitive Uses and Sensitive Areas** that are identified in ZTA 26-01 should be protected by setbacks that are an additional minimum beyond the regulated setback for structures in industrial zones. But, given the hazards and intrusions experienced with data centers in other communities, those added setbacks should be at least 1000 feet, and they should apply to accessory structures and Peripheral Equipment as well to primary structures.
- **Mandatory OZAH Review:** All data centers must be required to undergo a full public hearing and review by the Office of Zoning and Administrative Hearings (OZAH). There must be no administrative reviews for later renewals of or changes to a granted Conditional Use; all modifications, expansions, or equipment swaps must be subject to the full public process.

2. Acoustic and Human Exposure/Comfort Protection

Standard noise ordinances are insufficient for the 24/7 constant-frequency emissions unique to these facilities. Disturbing noise and vibrations should be contained strictly within data center property lines.

- **Zero-Tolerance Noise Policy:** The County must implement "zero-tolerance" restrictions on all emitted noise, specifically targeting low-frequency humming and tonal whines that bypass traditional decibel measurements. Existing dBA-only standards in Chapter 31B are inadequate for the tonal hum produced by data centers. A Low-Frequency Nuisance Standard should be adopted, where a dBC level more than 15 dB above the dBA level constitutes a violation (similar to the standards adopted in Portland, Oregon).
- **Vibration Controls:** Regulations must strictly prohibit mechanical vibrations that impact the structural integrity of surrounding properties or neighbor quality of life. Data centers' emissions of 75–85 dBC cause vibrational stress, headaches, and chest pressure.
- **Backup Power Standards:** All backup generators must meet the highest available standards for air quality and noise suppression, with no exceptions for emergency testing periods.

3. Utility Independence: "BYOG" and Water Mandate

To prevent utility rate spikes, grid instability for residents, and the adverse effects to communities that are associated with the installations of high-voltage transmission lines, a "**Bring Your Own Generation**" (BYOG) mandate is required.

- **95% On-Site Sustainable Power:** Data centers must be mandated to generate 95% of their total power on-site using sustainable methods (e.g., geothermal or solar) for both primary and backup systems.
- **Water Autonomy:** Facilities must rely exclusively on closed-loop liquid cooling, and must not tap into the public water supply.
- **Contamination Safeguards:** Strict prohibitions against waterway, groundwater, and soil contamination must be established, enforced by unannounced routine inspections and stiff financial penalties for noncompliance.

4. Sustainable Operations & Equipment Licensing

A facility's impact evolves as hardware is replaced, upgraded, or supplemented; our regulations must remain current.

- **Comprehensive Operations Plan:** Every project must submit a binding plan for sustainable water usage, energy consumption, and waste disposal.
- **Industrial Machinery Licensing:** The County should implement a specific licensing framework for massive-scale machinery that requires independent audits and annual reporting.
- **Modernization Clause:** Licensing regulations should require that replaced or added machinery meets the most restrictive standards at the time of installation, preventing Non-conforming Use Protections that might "grandfather" obsolete or inefficient equipment.

5. Financial Security: Unified Environmental Restoration and Decommissioning Bond

Market experts suggest we may be in an “AI Bubble.” Noting the many business entities building and operating data centers, the trillions of dollars invested globally in data centers, and the high levels of debt-driven financing, and leading experts expect many of these entities will not be viable long-term.

Given the potential for massive and lasting deleterious effects from which an owner could walk away, the County must require a **Unified Environmental Restoration and Decommissioning Bond**. This bond must include **Pollution Legal Liability** and **Environmental Response** components sufficient to cover:

- Complete decommissioning and equipment removal;
- Specialized disposal of thousands of high-capacity battery cells, as used in Lithium-Ion Battery Energy Storage Systems (BESS).
- Environmental remediation of soil and groundwater;
- Restoration of the site to its pre-development state; and
- Full compensation for damage to public health and property values.

This financial assurance must be accessible to the County if the owner becomes financially distressed, if the facility is abandoned or left idle for more than six months, or if noncompliance results in damage to residents’ health or property values.

6. Extended Moratorium and Evaluation Period for Long-Term Impact Study

Bill 4-26 sets a mere 6-month time period for the Task Force on Data Centers to produce its report and recommendations. That 6-month time period may be a reasonable deadline for the Task Force’s preliminary report; but a significantly longer time period should be dedicated to the complete study of the immediate, ongoing, and long-term effects of these facilities – which should include a period sufficient to complete a peer-reviewed Health Impact Assessment (HIA) – and to then recommend comprehensive legislation and regulations. A moratorium on the permitting of new data centers in the County should be established and remain in effect until all legislation and regulations recommended by the Task Force have been considered for a vote by the Council and take effect. Time and study may demonstrate that even stronger policies are required. But it is imperative that legislation and regulations adopted by the Council at least include the rigorous standards outlined above as non-negotiable prerequisites for any future data center permitting in Montgomery County. By adopting these rigorous standards and invoking an extended moratorium to allow for a thorough Task Force study and a peer-reviewed Health and Infrastructure Impact Assessment, the Council will ensure that Montgomery County is protected from the lasting harmful environmental, financial, and physiological effects, including the fallout from an AI infrastructure bubble.

Sincerely,

/s/ Sue Present