

March 29, 2019

Dear President Navarro and Councilmembers:

We are writing on behalf of Montgomery County Sierra Club and 350MoCo to support Bill 7-19, and to recommend some clarifying language and consideration of two policy issues.

As you know, Bill 7-19 amends the Commercial Property Assessed Clean Energy (C-PACE) legislation to address a financing gap resulting from previously enacted PACE legislation. Under the existing legislation, the tax surcharge that is used to pay back loans for energy efficiency and other energy improvements does not apply to new construction. By allowing financing for new construction that goes beyond building code requirements (for energy efficiency and other energy improvements), the amendment could expand the usefulness of the C-PACE program and help mitigate a source of carbon emissions.

Building policies are especially important **because buildings are the leading source of emissions (53% of the total) in the County and the County has more authority to control building emissions than emissions in other areas.** Because buildings constructed in the coming years will last for decades, conserving energy use in these new buildings can markedly cut cumulative carbon emissions.

Reducing energy use (and thus utility costs) can also address the affordability of housing. This financing vehicle could encourage accelerated reductions in emissions through private financing, allowing government financial support to focus on affordable multifamily buildings, where C-PACE is often less available.

There are, however, provisions in the bill that require clarification, as well as policy issues that merit discussion.

First, we recommend that the language describing eligibility criteria in 18A-35(a)(4) be clarified either in the bill itself or in accompanying legislative documents. The amendment, as now worded, authorizes financing for new construction that exceeds the “current County energy conservation building code performance.” It would be helpful to make clear that the timing of the relevant construction codes is the date of application for the financing, rather than, say, the date of the amendment’s enactment. In addition, it would be useful to clarify that the reference to the “energy conservation building code” should be construed to refer to all relevant construction codes in existence at the time of the application, thus including potentially multiple codes.

We also wish to raise two policy issues for the Council to consider. First is the question whether eligibility should require a threshold amount by which the proposed construction would exceed construction code performance. In Connecticut, under a C-PACE New Construction Pilot program, developers that can demonstrate that a building’s performance exceeds a code-compliant baseline by at least 10% (up to 20%), are eligible for financing. The Council should consider whether to adopt such a minimum. Second, the amendments define the maximum loan amount as “20% of the total construction costs.” It is also worth evaluating whether the

maximum loan allowed should be tied to the costs of the enhancements that go beyond code, but not to exceed 20% of the total construction costs.

In conclusion, we support the county's efforts to extend C-PACE financing to new construction that exceeds construction code requirements and recommend consideration of the issues described above.

Sincerely,

Michal Freedman, Sierra Club Montgomery County, Vice Chair

Jeffrey Weisner, 350MoCo, President, Steering Committee