

Frederick County Community Development Division Staff Report

Frederick County Water and Sewerage Plan Amendments

Planning Commission Review – January 9, 2013

Fall 2012 Cycle Amendment Requests

WS 12-08 Frall Developers, Inc.

WS 12-09 Monocacy Ventures LLC/Monocacy Investments LLC

WS 12-10 Baker Park East, LLC

ISSUE

The Planning Commission is requested to review the amendment requests for a finding of consistency with the 2010 County Comprehensive Plan.

BACKGROUND

The purpose of the Planning Commission's review is to determine whether each amendment request is consistent with the 2010 County Comprehensive Plan. The Land Use Article of the Annotated Code of Maryland defines consistency with the comprehensive plan as addressing the location, character, and extent of the request. A finding with regards to consistency may reference the comprehensive plan map and the text document, specifically the goals and policies. For properties located within a municipality the municipal comprehensive plan and municipal land use plan designation is referenced.

The staff report contains an updated section of Chapter 1, Policies and Procedures, from the Water and Sewerage Plan that was approved by the Board of County Commissioners on November 17, 2011 as part of the Triennial Review of the Water and Sewerage Plan.

A finding of consistency does not reference whether a case meets the specific criteria, described in the Water and Sewerage Plan, for the requested classification. That determination is made by the Board of Commissioners in their review.

If the Planning Commission finds a request to be inconsistent with the comprehensive plan then the request is not forwarded to the Board of Commissioners.

RECOMMENDATION

Staff recommendations are noted in the individual staff reports.

IV. COUNTY WATER AND SEWERAGE PLAN CLASSIFICATION SYSTEM

A. General

A classification system has been established for properties that will be served by publicly owned community water and sewer systems. The classification system reflects a progression toward the attainment of public water and sewer service so as to implement the County Water and Sewerage Plan, as well as County or municipal Comprehensive Plans.

The classification system is designed to show need and intent of the County, its municipalities and the private developer for establishing or extending publicly-owned community water and sewer systems.

Classifications which indicate anticipated improvements within the next six (6) years should be part of an action plan to be implemented within the constraints of funding and various required agreements and approvals. The classification system is not intended to prevent development of publicly-owned community water and/or sewerage systems or facilities prior to or later than the time periods indicated; rather it is the best estimate at the time of adoption as to when such development may be expected to occur. Every effort should be made by the County, municipalities, and developers to progress with water and sewer projects to the point that construction may occur in accordance with the Plan. However, after having achieved one level, there is no guarantee that the next level classification will be granted.

B.. Water and Sewerage Plan Classifications:

Tracts of land where publicly-owned community water and/or sewer facilities are proposed to be extended by developers or where the County or municipalities anticipate that development may occur within 20 years may be assigned a classification with the suffix "Development" or "Dev.". A "Dev." designation means that the extension or construction of publicly-owned community systems or facilities is dependent upon developer or land owner action and funding.

The year of adoption of a piecemeal Water and Sewerage Plan amendment is noted within the water and sewer classification designations for properties in 4 and 3 categories, (e.g. 90-S-3 means the sewer priority classification of S-3 was approved by the County in 1990).

NPS – No Planned Service:

A classification assigned during the Comprehensive Planning Process to land, which is not planned or projected to be served by publicly-owned community water or sewer systems within the timeframe of the current County Comprehensive Plan.

PS – Planned Service:

A classification assigned during the Comprehensive Planning Process to an area shown on the Comprehensive Plan for growth utilizing publicly-owned community water and/or sewer systems, or within the Community Growth boundary of a community to be served by public water and sewer in the adopted County Comprehensive Plan, within the 11-20 year time period. Properties within this classification have designations other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan.

This classification may be assigned through the piecemeal application process as follows:

(1) To property annexed into a municipal corporation, and/or to property which is designated other than Agricultural/Rural or Natural Resources on the County Comprehensive Plan and which is adjacent to property which has a classification of PS or higher for public water and/or sewer. For purposes of this provision, a parcel which is separated from another parcel by a public or private road shall be deemed to be 'adjacent' to such parcel.

(2) A developer funded study must be completed as part of the request for a PS classification, and approved by the DUSWM, to determine if adequate capacity exists in the sub-regional water or wastewater treatment system to serve properties outside the system's current service area. This study must also analyze water treatment or wastewater treatment system expansion needs and constraints, including costs estimates, and any additional groundwater appropriation and National Pollutant Discharge Elimination System (NPDES) discharge permit revisions from the State of Maryland.

S-5/W-5 – Mid-Range Plan Phase:

A classification assigned through the Comprehensive Planning Process where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 7-10 year time period. Properties classified S-5/W-5 are not required to, but may, connect to the community system. Properties requesting this classification shall meet the following criteria:

- a. Have a land use plan designation other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan.
- b. Have zoning other than Agricultural or Resource Conservation.
- c. If located within a municipality where the municipality provides community water and sewer, the property shall be designated in the municipal plan to be provided services in the 7-10 year time frame.
- d. Be located within a Planned Service Area as shown on the Frederick County Water and Sewerage Plan map.
- e. Demonstrate that there is sufficient capacity planned in the systems serving the property within the 7-10 year period.

This classification may be assigned through the piecemeal application process to property:

- 1) Annexed into a municipal corporation; or
- 2) Granted a Planned Unit Development (PUD) or Mixed Use Development (MXD) floating zone classification; or
- 3) Having an existing PS classification and requesting a connection(s) to a sub-regional water or wastewater treatment system; or
- 4) Possessing Institutional (Ie) zoning as of April 8, 2010 and immediately adjacent to denied access water or sewer infrastructure lines, provided all criteria in Section II E(7)(F) are satisfied; or
- 5) Zoned Agricultural, if all the criteria set forth above and in Section II E. 8. are satisfied.

S-4/W-4 – Concept Evaluation Phase:

A classification assigned through the piecemeal application process to properties having an S-5/W-5 classification, and designated residential, commercial, or industrial, or in general, a category other than Agricultural/Rural or Natural Resource on the most recently adopted County Comprehensive Plan, and where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 4-6 year time period. Properties classified S-4/W-4 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. The criteria required for the S-5/W-5 classification have been met.
- b. The application shall include documents that show conceptually how the applicant plans extensions of water and sewer lines to serve the property, including topographic information from appropriate sources and an estimate of construction costs. Water concept submissions shall consider the County's water pressure zones to develop the concept, e.g., water booster pumping stations or pressure reducing valves. Sewerage concepts shall consider gravity service as the preferred method (see II (E) (5)(E)). All concept plans shall distinguish between County planned and developer provided facilities.
- c. Adequate capacity shall exist or be programmed within the County or a municipal CIP for the system, which will serve the site. If adequate capacity does not exist, the property owner will either wait for public improvements to be programmed or propose how such service can be provided by the developer/applicant.
- d. After a S-4/W-4 classification has been granted, an application may be submitted to the Maryland Department of the Environment for Water and/or Sewerage construction permits, as applicable.

S-3/W-3 – Preliminary Design Phase:

A classification assigned through the piecemeal application process to properties where improvements to, or construction of, publicly-owned community sewer or water systems are planned to be completed and operational within 3 years. If applicant has not obtained approved water and sewer improvement plans for onsite work within three years or the Preliminary Plan/Site Plan/Phase II Plan expires, they may lose their “3” classification and revert to the “4” classification at the next amendment cycle. Properties classified S-3/W-3 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. Criteria required for the S-4/W-4 classification have been complied with.
- b. Applicant shall provide a study of the components of the existing water and wastewater system and identify inadequacies that may result from the development of the property. This study may be performed in conjunction with the *Adequate Public Facilities Ordinance* (APFO) studies.
- c. A preliminary subdivision plan, site plan, or Phase II Plan (in the case of

PUDs and MXDs) has been approved by the Planning Commission.

- d. A discharge permit, where appropriate, has been approved by all appropriate State agencies.
- e. A hydrogeologic study, where appropriate, supports the establishment of a community water system, which will not be detrimental to adjoining wells or surface waters. The hydrogeologic study is typically required to appropriate both ground (well) or surface waters. A Water Appropriation and Use Permit, where appropriate, has been approved by all appropriate State agencies.
- f. If County funded CIP project(s) are needed to provide service, then construction funds for each project must be contained in the first or second year of the County's approved CIP.
- g. If service is to be provided by developer initiated and funded projects, the developer must have approved and signed water/sewer improvement plans and an approved cost proposal for all improvements required to bring adequate water and sewer service to the site. This "service to the site" requirement is considered "met" if adequate water and sewer lines about the site and are located within a public right-of-way or a public water/sewer easement which about the site.
- h. Satisfaction of Items f. and g. will create a rebuttable presumption in favor of the applicant that service will be available within 3 years.

S-2/W-2 – Engineering Phase:

This classification is not mapped. Properties are assigned this category by County staff and shall meet the following criteria:

- a. All criteria required for the S-3/W-3 classification have been complied with.
- b. Improvement plans for water and sewer lines and preliminary design of treatment plants and other infrastructure, as appropriate, have been approved.
- c. Location of facilities, i.e. tanks, pumping stations, treatment plants have been located on the Water and Sewerage Map by prior amendment.
- d. Properties classified S-2/W-2 shall connect to the publicly owned system when service lines about the property.

During the S-2/W-2 phase, final construction design drawings and documents are prepared, rights-of-way are determined and the necessary acquisitions are pursued, various construction related permits are applied for and obtained, a public works agreement, allocation of taps including multi-year tap agreements and improvement guarantees are approved. Final plats may then be recorded, where appropriate.¹

¹ See Sec. 1-16-106 of the County Code for additional requirements.

S-1/W-1 – Existing Service:

A classification assigned to properties where publicly-owned community sewer or water systems are existing and are connected to and serving a structure on the property. Properties are assigned this classification by County staff to reflect projects recently completed or structures connected to the public water or sewer system. The County Water and Sewerage Plan map will be revised to reflect this status at regular updates.

Multi-Use Water System:

A classification assigned during the piecemeal application process to a single parcel or lot utilizing a water supply system having the capacity to supply more than 5,000 gallons of water per day and serves a number of individuals.

Multi-Use Sewerage System:

A classification assigned during the piecemeal application process to a single parcel or lot having a maximum discharge or output capacity in excess of 5,000 gallons per day.

STAFF REPORT

Case # WS-12-08

APPLICANT: Frall Developers, Inc.

REQUEST: To reclassify 34 acres from W-4/Dev., S-4/Dev. to W-3/Dev., S-3/Dev.

LOCATION: East side of Yeagertown Road, 300 feet north of Old National Pike
(Tax Map 79, Parcel 9, Property ID#09-263594)

BACKGROUND:

Comprehensive Plan — The property is designated Low Density Residential within the Linganore Community Growth Area.

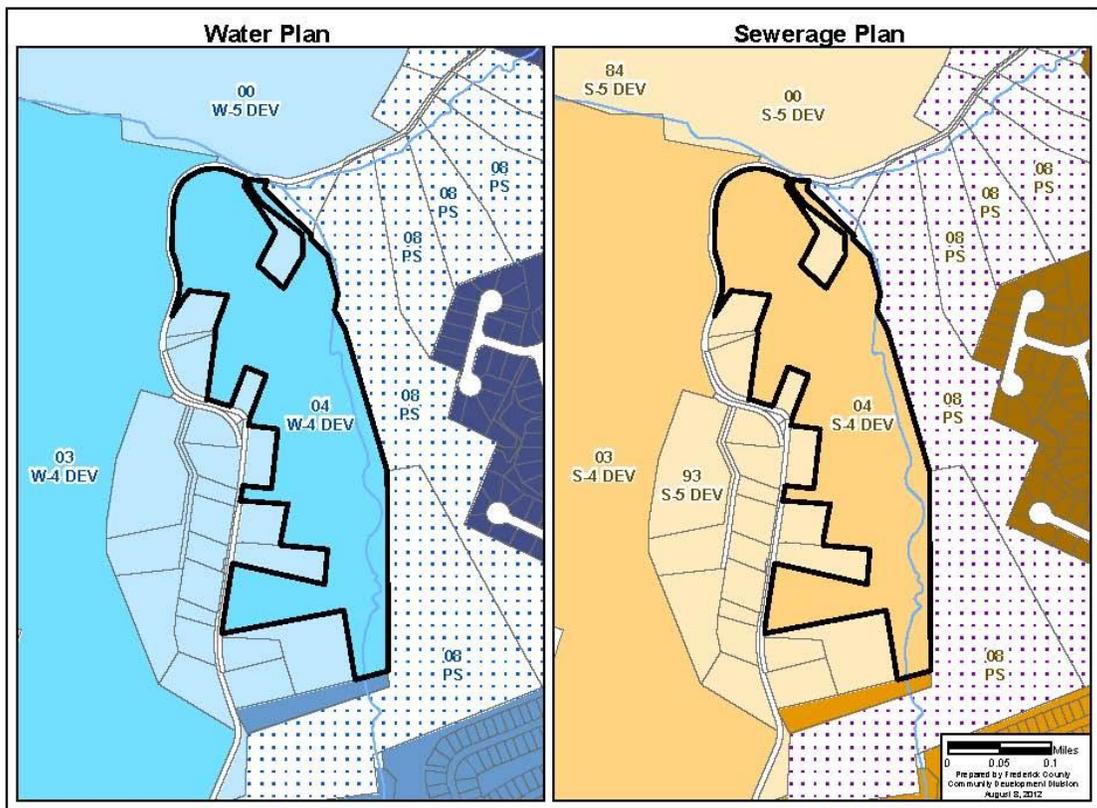
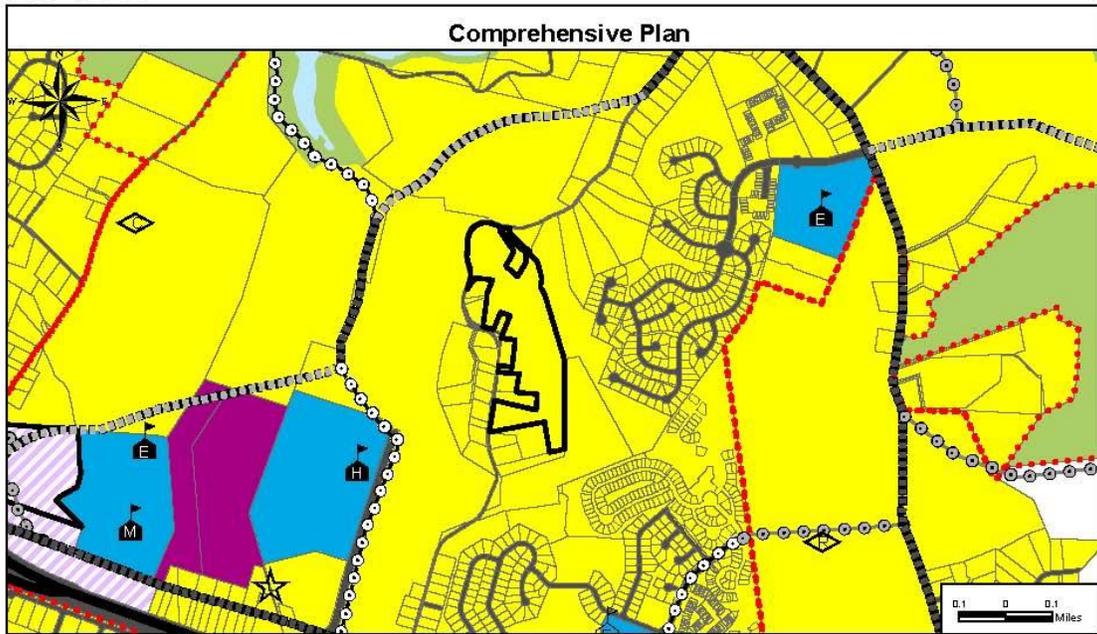
Zoning — R-1 Residential

Development Status — The property received conditional preliminary plan (Supply to Barren) approval on October 10, 2012 from the Planning Commission for a residential cluster project with 31 single-family lots . A 3-year APFO approval for the project was also granted by the Planning Commission on October 10, 2012.

Water & Sewerage Plan Status — An existing 12-inch public sewer line is located on the subject property. Water infrastructure improvement plans to extend the existing 8-inch water line located approximately 1700 feet south of the subject property on Yeagertown Road must be approved by the Division of Utilities and Solid Waste Management prior to approval of the “3” classification by the Board of County Commissioners.

STAFF RECOMMENDATION:

The subject property is located within a community growth area and within a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the Comprehensive Plan.



WATER & SEWERAGE PLAN AMENDMENTS
Fall 2012 Cycle

STAFF REPORT

Case # WS-12-09

APPLICANT: Monocacy Ventures, LLC, Monocacy Investments, LLC

REQUEST: To reclassify 379+/- acres from W-4/Dev., S-4/Dev. to W-3/Dev., S-3/Dev.

LOCATION: West side of Ed McClain Road, south of Bush Creek. (Tax Map 88, part of parcels 24, 44, and 45. Account# 09-246320, 09-246339, 09-260692)

BACKGROUND:

Comprehensive Plan — The property is designated Low Density Residential within the Monrovia Community Growth Area.

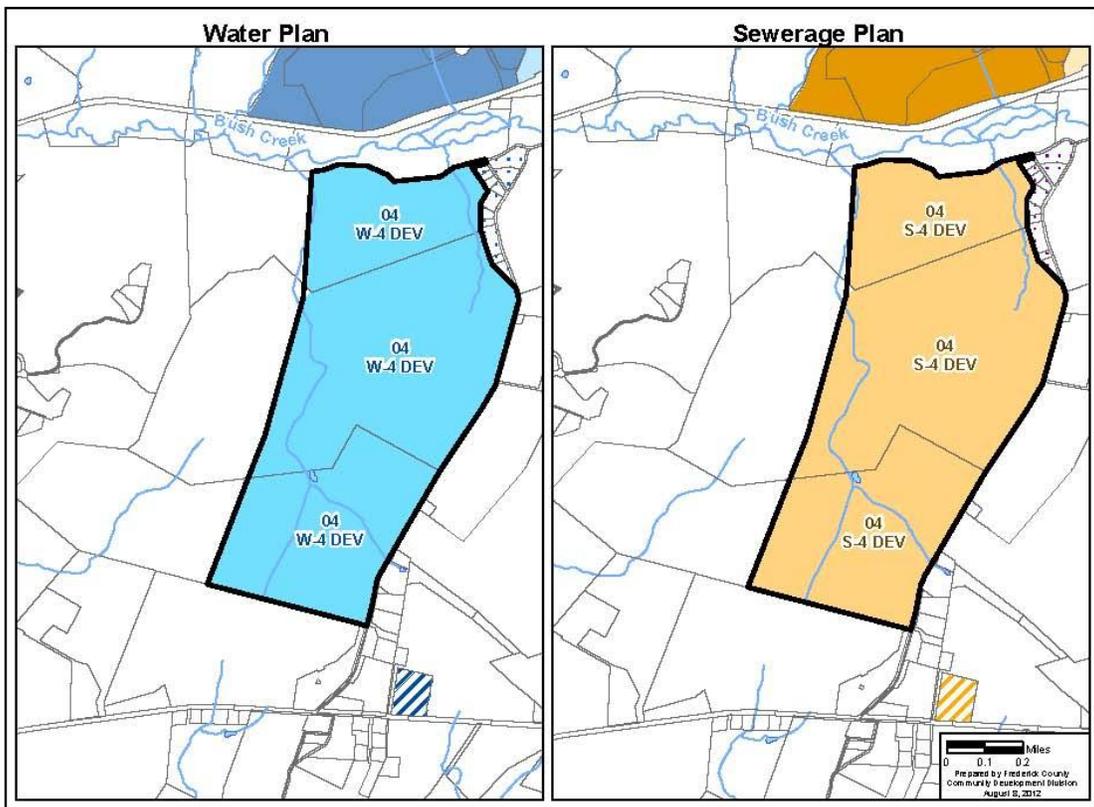
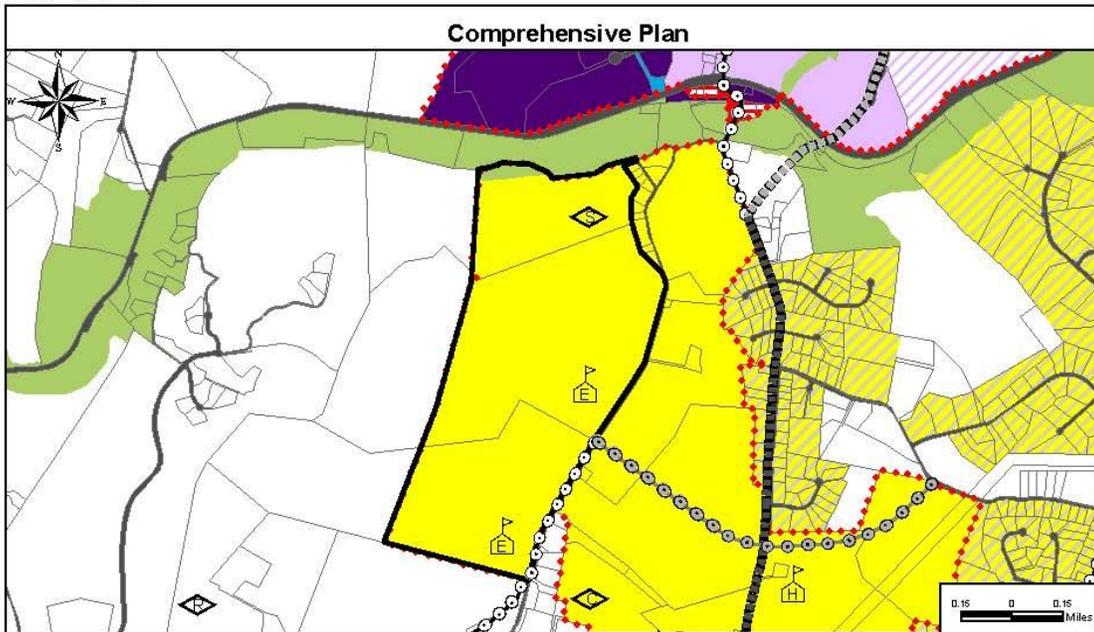
Zoning — Planned Unit Development (PUD)

Development Status — The subject properties were rezoned from Agriculture to PUD in 2004 for development of 1,100 units as an age-restricted community. A Phase II PUD Plan was approved in 2006 for the overall development and final site plan approval for section I of the project granted in 2007. In September of 2012, an amendment to the 2004 Phase I PUD was approved to remove the age-restriction component and change various other details associated with the Landsdale project. A revised Phase II PUD Plan was submitted in late 2012 for the project. A Development Rights and Responsibilities Agreement (DRRA) was also approved concurrently with the 2012 Phase I amendment which maintained the prior age-restricted development approvals for the project, thereby negating the need for approval of a revised Phase II for the all-age development before reclassification to the “3” category.

Water & Sewerage Plan Status — Public water service will be provided to the properties via an extension, under Bush Creek, of the existing 12-inch water line present along Intercoastal Drive, approximately 2,000 feet to the north of the subject properties. Sewer service to the site will be made by the developer-funded construction of the midde-phase of the Bush Creek Interceptor from the Monrovia WWTP westward to the location of the County’s landfill leachate treatment project.

STAFF RECOMMENDATION:

The subject properties are located within a community growth area and within a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the Comprehensive Plan.



WATER & SEWERAGE PLAN AMENDMENTS
Fall 2012 Cycle

STAFF REPORT

Case # WS-12-10

APPLICANT: Baker Park East, LLC.

REQUEST: Reclassification of 64 acres from W-5/Dev., W-4/Dev. and S-5/Dev., S-4/Dev. to W-3/Dev. and S-3/Dev.

LOCATION: Northwest side of Gas House Pike (East Church Street Extended) within the City of Frederick (Tax Map 67, Parcel 14. Property ID# 02-167905)

BACKGROUND:

Comprehensive Plan — The property is designated Medium Density Residential on the City of Frederick Comprehensive Plan.

Zoning — R-12 (City Zoning)

Development Status — The Frederick City Planning Commission approved a Preliminary Plan (“Nicodemus Property”) in May 2012 for development of 457 residential units (single-family, townhome, and multi-family units), plus 18,000 square feet of commercial space on the subject property. The Preliminary Plan shows a relocated East Church Street Extended that will provide new frontage and access to the property.

Water & Sewerage Plan Status — An existing 33-inch sewer trunk line is located adjacent to the property along Gas House Pike and will serve the proposed development, with treatment at the City’s Gas House Pike Treatment Facility. Water service will be provided by a connection to the existing 12-inch water line present along the property frontage. The City of Frederick Engineering Department has stated, in a letter dated November 27, 2012, “There is adequate capacity at the wastewater treatment plans and sufficient water for allocation to the project at this time.”

STAFF RECOMMENDATION:

The subject property is located within a municipality, a community growth area and within a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the City Comprehensive Plan.

