

FREDERICK COUNTY PLANNING COMMISSION  
Minutes of Meeting for  
June 8, 2022  
*In Person/Virtual Meeting*

See video for further meeting details: <http://frederickcountymd.gov/5956/Video-Archives>

Members Present: Sam Tressler III, Chair; Craig Hicks, Vice-Chair; Joel Rensberger, Secretary; Carole Sepe; Terry Bowie (exited meeting at 2:30 p.m.); Robert White, Jr.; Tim Davis.

Members Absent: None

Staff Present: Mike Wilkins, Director, Development Review and Planning; Kimberly Golden Brandt, Director, Livable Frederick Office of Planning and Design; Wendy Kearney, Deputy County Attorney; John Dimitriou, Livable Frederick Planning Manager; Tim Goodfellow, Livable Frederick Environmental Planner; Mark Mishler, Traffic Engineer; and Karen James, Administrative Specialist

The meeting was called to order at 8:30 a.m.

1. **PLEDGE OF ALLEGIANCE** Mr. Tressler
2. **ROLL CALL** Mr. Tressler
3. **MINUTES TO APPROVE** – March 23, 2022

Mr. Hicks pointed out that item #5 was a decision item, and the minutes did not reflect the decision. Mr. White moved the decision be added to the minutes. There was no objection. Planning Commission had approved the memo by consent. Mr. Hicks moved that the Planning Commission approve the minutes as amended. Mr. White, second.

<u>VOTE</u>	6-0-1-0
FOR:	4 - Tressler, Hicks, Rensberger, Sepe, Bowie, White
AGAINST:	0
ABSTAIN:	1 - Davis
ABSENT:	0

4. **PLANNING COMMISSION COMMENTS**

Mr. Hicks acknowledged and thanked Ms. James for her support to the Planning Commission including working diligently to make sure materials are received in advance of the meetings. A recent mailing found materials reaching Boise, Idaho, before boomeranging back to the intended recipient.

5. **AGENCY COMMENTS / AGENDA BRIEFING**

Ms. Brandt stated that there were two staff-initiated water and sewer plan amendments removed from the day's agenda. The Planning Commission was in agreement with the removal. She reviewed upcoming meetings and topics, including a decision to be made on the Annual Report, and another Sugarloaf Treasured Landscape Management Plan workshop. Mr. Wilkins announced Development Review items to be presented at the July 13<sup>th</sup> meeting.

## **6. SOUTH FREDERICK CORRIDORS PLAN**

*Kimberly Golden Brandt, Director, Livable Frederick  
Denis Superczynski, Livable Frederick Planning Manager  
John Dimitriou, Livable Frederick Design Planner*

Ms. Brandt addressed the Planning Commission and provided background on the Plan. She then introduced Mr. Dimitriou and he began the presentation. The South Frederick Corridors Plan is being done to implement the Livable Frederick Master Plan. The outcome of this effort will be the gradual redevelopment of the planning area into more of a mixed-use, walkable environment. Mr. Dimitriou said that a crucial ingredient to achievement is the expansion of residential uses in the area. Mr. Dimitriou responded to questions posed by the members, including questions about mixed use.

Mr. White mentioned the quarries in the area and asked if staff considered possible long term change and different use of that area. Mr. Dimitriou said that staff has set that area aside at the moment, in terms of considering possible redevelopment options. Mr. White said he thought it's worth considering, or at least doing a study as to how to minimize or mitigate any potential long term impact of the quarry on the area to the south and to the west.

Presentation continued, along with questions and answers. Mr. Tressler, along with other members, expressed their appreciation for Mr. Dimitriou's efforts. Further discussion included use of buffers and functional transitional areas.

## **7. LEGISLATION**

- a) *Bill 22-10 : An Act to amend the Adequate Public Facilities Ordinance (Chapter 1-20 of the County Code) by strengthening traffic mitigation standards, increasing the requirements to be considered a "limited impact development," revising aspects of the Planning Commission's approval authority, revising approval time periods, and removing or revising out of date language.*

### **Presentation:**

Council Member Steve McKay, Council Member Kai Hagen

Mr. McKay explained his process of review and collaboration with staff members including compromises made along the way. Mr. Hagen spoke about the current APFO and what is working and what is not. When speaking with members of the community about their concerns, he said traffic comes up all the time.

Mr. McKay provided a step-by-step extensive review of the current APFO and proposed changes. Staff memo with current and proposed changes may be viewed at: [13387 \(frederickcountymd.gov\)](https://frederickcountymd.gov/13387)

Questions were posed by Planning Commission members. Along with Mr. McKay and Mr. Hagen, Mr. Mishler provided answers. Ms. Kearney also contributed to the meeting, explaining portions of the bill. Staff responses included those made by Mr. Wilkins. Traffic was the main concern with questions about what data is gathered, who gathers it and how it is applied.

Mr. Wilkins pointed out that the topic of Bill 22-10 had been going on for two-three hours, with a very long agenda still ahead. Additionally he reminded the Planning

Commission that their role in reviewing legislation is to review the language as written and make a recommendation to the County Council. They may also make a second motion if it decides to do so to make additional recommendations beyond what is written in the proposed legislation.

The presentation continued, ending at 12:04 p.m.

**Public Comment: Total 5**

In person: 2

Live call-ins: 1

Recorded messages: 2

Council members McKay and Hagen offered their rebuttal.

Lunch break was taken at 12:45 p.m. Meeting resumed at 1:18 p.m.

Discussion of Bill 22-10 continued with Ms. Sepe suggesting taking a vote on whether or not to recommend. Then, if they wish to make any further recommendations, postpone making those recommendations until next week. Mr. Hicks said he would be amenable to Ms. Sepe's approach. He further stated that he would vote to approve the bill and that there may be some things that were discussed that would benefit the bill in terms of additional recommendations. The upcoming County Council meeting and agenda were discussed, and Ms. Kearney weighed in with the Planning Commission's options. Continuing until the follow week was also discussed.

Mr. White said they have never split their recommendations – they have always gone up together. Mr. Rensberger was in agreement. Ms. Sepe indicated she was not ready to make a real recommendation that she feels comfortable with, but would not support the bill as currently written. Mr. White said he like the bill and suggested moving it to the first item on the following week's agenda. And, letting the County Council know that they are planning on doing such and then making a decision and a recommendation. Ms. Sepe recommended closing public comment, so no additional public comment on this matter.

**Decision:** Mr. Rensberger moved that the Planning Commission continue the matter regarding Bill 22-10 to amend the Adequate Public Facilities Ordinance until the June 15<sup>th</sup> meeting for discussion and consideration and further moved that the public comment period be closed. Ms. Sepe, second. Mr. Bowie pointed out he was skipped for comment. He suggested at a minimum this gets a workshop with all the stakeholders, saying he was not in favor of moving this forward in the affirmative as it is written, and pointed out the impact to the development community large and small and the economy of Frederick County. He said that the taxpayers of Frederick County never get their full return-on-investment on road projects and the current proposal is not a remedy for that.

Mr. Hicks said he didn't think that the bill is intended to be a remedy for a shortfall in state funding or that it is the point. He further said it is an important issue, but there are other ways that are more effective addressing that issue – but it is a different issue.

Mr. Tressler restated the motion made by Mr. Rensberger and seconded by Ms. Sepe.

VOTE      7-0-0-0

FOR:      7 - Tressler, Hicks, Rensberger, Sepe, Bowie, White, Davis

AGAINST:    0

ABSTAIN: 0  
ABSENT: 0

b) *Bill 22-12: An Act to create a new Special Exception use category in the Zoning Ordinance (Chapter 1-21 of the County Code) - "facility for functions"- applicable to historic structures or sites, and specifying the conditions that apply to this Special Exception use; and clarifying the approval processes for uses within Historic Structures or Sites.*

**Presentation:**

Council Member Jessica Fitzwater

Mr. Wilkins began the presentation on behalf of Ms. Fitzwater, reviewing the highlights of Ms. Fitzwater's staff report. Ms. Fitzwater joined the meeting, providing background on the bill and a look at what the bill is intended to do, including clarifying a lot of things that were a little gray, to create the definition and the criteria and to clean up the order of operation. Mr. Hicks asked who would be responsible for determining what types of events fit into the description and that the definition of social event seems extremely broad. Mr. Wilkins said the question of who would interpret whether a certain activity fell under that definition, that would be at the discretion of the zoning administrator. The zoning ordinance gives the zoning administrator the authority to make those types of determinations of use.

Mr. White asked about the vast differential in sizes of potential lots and where the limitation is on what goes on, and the noise and the traffic that it can generate. Ms. Fitzwater's response included that lot sizes were mostly based on looking at similar uses that are allowed already in those zones. Mr. Wilkins further stated that the bill does not establish new uses, it gives it more criteria and gives it a definition. While there are some minimum setbacks, it's up to the Board of Appeals to determine if a property is suitable for a facility for functions. They could also establish certain limitations on that use.

The first step would be getting property listed on the county's Register of Historic Places. Once on that list, then the next step would be to receive Board of Appeals approval for a facility for functions with whatever limitations the Board of Appeals feels are necessary to place on that use on that property based on size location, proximity to other uses, et cetera. If the Board of Appeals approves that, then the applicant would enter into a memorandum of understanding that's discussed in the bill. And once that's completed, there would be a site development plan reviewed by the Planning Commission.

Mr. Rensberger expressed that he appreciated the broad definition for now and the deference to the zoning administrator and Board of Appeals. He further stated this may be refined in coming years, but it is an important first step toward managing an evolving need.

Discussion continued among the Planning Commission members, Ms. Fitzwater and Mr. Wilkins.

**Public Comment: None**

**Decision:** Mr. Hicks moved that the Planning Commission recommend that the Frederick County Council enact Bill 22-12 Facilities for Functions, amending Chapter

1-19 of the County Code to create a new, special exception use category. Mr. Rensberger, second.

<u>VOTE</u>	7-0-0-0
FOR:	7 - Tressler, Hicks, Rensberger, Sepe, Bowie, White, Davis
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

## **8. SITE PLAN**

*Fair Oaks Non-Governmental Utility* - Applicant is requesting site plan approval to construct a non-governmental utility on .41 acres in the Jefferson Tech Park. Located at 6050 Jefferson Station Court. Tax Map 76, Parcel 568. Zoned (MXD) Mixed Use Development. Planning Region: Frederick. SP267692, FRO F267712, APFO A267711.  
*Jerry Muir, Principal Planner*

**Staff Presentation:**

Jerry Muir

**Applicant Presentation:**

Justin Doty, Frederick, Seibert and Associates, Inc., representing First Energy

Mr. Muir responded to questions about height of the structure. Mr. Hicks asked to clarify the correct file number for the application, and noted three different numbers in the staff report. Ms. Moore responded the correct file number was SP06-07.

**Public Comment:** None

**Decision:** Mr. Rensberger moved that the Planning Commission approve Site Plan SP06-07, SP-267692, F267712 and APFO-A267711 with the conditions as listed in the staff report for the proposed Fair Oaks Non-Governmental Utility based on the findings and conclusions of the staff report and testimony, exhibits, and documentary evidence produced at the public hearing. Mr. Hicks, second.

<u>VOTE</u>	6-0-0-1
FOR:	6 - Tressler, Hicks, Rensberger, Sepe, White, Davis
AGAINST:	0
ABSTAIN:	0
ABSENT:	1 - Bowie

## **9. SPRING 2022 CYCLE - WATER & SEWERAGE PLAN AMENDMENTS**

*Tim Goodfellow, Livable Frederick Environmental Principal Planner*

**a) WS-22-01 Trout Land Group, LLC (WS271177)**

Request: Reclassification of 3.8 acres from S-5 to S-4/Dev. Tax Map 89, Parcel 233, Lot 2, Property ID #09-317341, Location: 12051 Old National Pike, New Market, Maryland. Comp. Plan: Limited Industrial. Zoning: Limited Industrial.

**Staff Presentation:** Tim Goodfellow

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-01 consistent with the County Comprehensive Plan. Mr. White, second.

VOTE      **5-0-0-2**  
FOR:      5 – Tressler, Sepe, Hicks, White, Davis  
AGAINST:      0  
ABSTAIN:      0  
ABSENT:      2 – Bowie; Mr. Rensberger (absent at time of vote)

**b) WS-22-02 Oakdale Crossing LC (WS271181)**

Request: Reclassification of 26 acres from W-5, S-5 to W-3/Dev., S-3/Dev. Tax Map 78, Parcel 14, Property ID #09-229523. Location: North side of Old National Pike at Meadow Road. Comp. Plan: Office/Research/Industrial. Zoning: Mixed Use Development.

**Staff Presentation:** Tim Goodfellow

**Public Comment:** None

**Applicant:** Eric Soter, present

**Decision:** Mr. Hicks moved to find Case WS-22-02 consistent with the County Comprehensive Plan. Mr. Rensberger, second.

VOTE      **6-0-0-1**  
FOR:      6 – Tressler, Sepe, Rensberger, Hicks, White, Davis  
AGAINST:      0  
ABSTAIN:      0  
ABSENT:      1 – Bowie

**c) WS-22-04 Division of Planning & Permitting (Liberty Land, LLC) (WS273241)**

Request: Reclassification of 5 acres from S-1 to S-5/Dev. Tax Map 51, Parcel 19, Tract I, Property ID #08-217033, Daysville Road at MD 26 in Libertytown. Comp. Plan: General Commercial. Zoning: General Commercial.

**Staff Presentation:** Tim Goodfellow

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-04 consistent with the County Comprehensive Plan. Mr. Davis, second.

VOTE      **6-0-0-1**  
FOR:      6 – Tressler, Sepe, Rensberger, Hicks, White, Davis  
AGAINST:      0  
ABSTAIN:      0  
ABSENT:      1 – Bowie

**d) WS-22-05 Division of Planning & Permitting (Liberty Land, LLC) (WS273242)**

Request: Reclassification of 1.2 acres from S-1 to S-5/Dev. Tax Map 51, Parcel 19, Tract III. Property ID #08-598774. Location: South side of Daysville Road, 220 feet northwest of the MD 26/Daysville Road intersection in Libertytown. Comp. Plan: General Commercial. Zoning: General Commercial.

**Staff Presentation:** Tim Goodfellow

Mr. Goodfellow commented that there was an error(s) on the map. Listed as Liberty Land, the correct name is Libertytown Land.

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-05 consistent with the County Comprehensive Plan. Mr. Rensberger/Mr. White, second.

<u>VOTE</u>	<u>6-0-0-1</u>
FOR:	6 – Tressler, Sepe, Rensberger, Hicks, White, Davis
AGAINST:	0
ABSTAIN:	0
ABSENT:	1 – Bowie

e) **WS-22-06 Division of Planning & Permitting (Mid-Atlantic Cooperative Solutions, Inc., Dinsmore Family, LLC) (WS273243)**

Request: Reclassification of 6.8 acres from W-1 to W-5. Tax Map 57-I, Parcels 108, 114, 130. Property ID #28-543468, 28-543476, 28-533934, 28-533942. Location: North side of MD 26, Liberty Road, 270 feet east of Monocacy Boulevard. Comp. Plan: General Commercial. Zoning: General Commercial.

**Staff Presentation:** Tim Goodfellow

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-06 consistent with the County Comprehensive Plan. Mr. White, second.

<u>VOTE</u>	<u>6-0-0-1</u>
FOR:	6 – Tressler, Sepe, Rensberger, Hicks, White, Davis
AGAINST:	0
ABSTAIN:	0
ABSENT:	1 – Bowie

f) **WS-22-07 Division of Planning & Permitting (Various properties within the Crestview Sub-Regional Sewer System Area) (WS273244)**

Request: Reclassification of 57 properties to Planned Service-Sewer. Location: Willis Lane, Geneva Lane, Masser Road, Lori Lane, Bethel Road. Comp. Plan: Rural Residential and Agricultural/Rural. Zoning: R-1 Residential.

**Staff Presentation:** Tim Goodfellow

Ms. Sepe had questions about connectivity, specifically three on Bethel Road. Mr. Goodfellow said it was more of a technical recommendation from the Division of Utilities and this was their professional recommendation to the planning staff. Much discussion continued including one vacant lot and the impact an affirmative decision would have on the lot owner. Ms. Kearney provided additional background, explaining this is what is often referred to as a legacy system. Mr. Hicks asked about the costs that could be incurred by property owners to be re-classified. Mr. Goodfellow explained possible scenarios.

Ms. Sepe expressed concern noting that not all property owners were notified and she cannot support something when someone was not notified and cannot come in front of the Planning Commission and argue their point.

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-07 consistent with the County Comprehensive Plan. Mr. Davis, second.

<u>VOTE</u>	0-6-0-1
FOR:	0
AGAINST:	6 – Tressler, Sepe, Rensberger, Hicks, White, Davis
ABSTAIN:	0
ABSENT:	1 – Bowie

**g) WS-22-08 Frank and Delores Thompson (WS272232)**

Request: Reclassification of 0.92 acres from W-5 to W-3. Tax Map 78, Parcel 528, Lot 2. Property ID #09-311149. Location: 9223 Baltimore Road, 200 feet west of Bells Lane. Comp. Plan: Low Density Residential. Zoning: R-3 Residential.

**Staff Presentation:** Tim Goodfellow

**Public Comment:** None

**Decision:** Mr. Hicks moved to find Case WS-22-08 consistent with the County Comprehensive Plan. Ms. Sepe, second.

<u>VOTE</u>	6-0-0-1
FOR:	6 – Tressler, Sepe, Rensberger, Hicks, White, Davis
AGAINST:	0
ABSTAIN:	0
ABSENT:	1 – Bowie

Break taken at 3:31 p.m. Meeting resumed at 3:37 p.m.

Ms. Brandt addressed the Planning Commission, explaining the last two items on the agenda. After a brief discussion it was decided to move the Annual Report to the June 15th meeting.

## **10. FY-2023 MALPF EASEMENT APPLICATIONS REVIEW**

Staff will present 16 applications submitted for the FY-2023 Maryland Agricultural Land Preservation Foundation (MALPF) funding cycle for the purchase of preservation easements. The request is for a finding of consistency with the County Comprehensive Plan for MALPF applications.

*Anne Bradley, Ag Preservation Administrator*

- a) File #23-01 Adams, Christopher - 155 acres on the south side of Burkittsville Road, west of Broad Run Road (Tax Map 74 Parcels 6 and 237)
- b) File #23-04NG Borghardt, James and Donielle - 87-acres on the south and west sides of Crow Rock Rd, the north side of Wistman Lane (Tax Map 38 Parcels 48, 49, and 232)

- c) File #23-05 Brown, Greg & Anne – 167.5-acres on the south side of Bussard Road and west side of Holter Road (Tax Map 75 Parcel 4)
- d) File #23-10 Cumberland, Curtis & Maryanne – 111.5-acres on the west side of Handboard Road and south side of Simpsons Mill Road (Tax Map 35 Parcel 78)
- e) File #23-11 Dotterer, Paul and Karen – 41 acres located on the east side of Green Valley Road, and the north side of Molasses Road (a portion of Tax Map 43 Parcel 29)
- f) File #23-13NG Farmer, Wyatt and Kiley – 40 acres on the east side of Sabillasville Road and the west side of Browns Quarry Road (a portion of Tax Map 06 Parcel 59)
- g) File #23-14 Flook, William and Merhle – 301 acres on the east and west sides of Roy Shafer Road, the east and west sides of Old Middletown Road, and the north and south sides of Bussard Road (Tax Map 65 Parcels 26, 27, and 50)
- h) File #23-18CF Graceham Properties LLC – 198 acres on the south side Longs Mill Road, east of Creagerstown Road (Tax Map 33 Parcels 8 and 29)
- i) File #23-21 Grossnickle, Rene – 197 acres on the east and west sides of Burkittsville Road and the north and south side of Brownsville Pass Road, partially within the Town of Burkittsville (a portion of Tax Map 75 Parcel 22)
- j) File #23-34 Lloyd, Jean, Trustee – 131 acres on the west side of Fry Road, north of Promise Court (Tax Map 93 Parcel 48)
- k) File #23-36 Millard Farm LLC – 199 acres on the east side of Burkittsville Rd, the south side of Brentland Rd the north and south sides of Route 17, and the north and south sides of Jefferson Pike (Tax Map 92A Parcel 4, Tax Map 83 Parcel 73 and Tax Map 91C Parcel 237)
- l) File #23-40NG Reaver, Vincent and Amber – 51 acres on the west side of Sixes Road, south of Grimes Road (Tax Map 15 Parcel 112 and 116)
- m) File #23-41CF Timothy Rice – 153 acres on the south side of Coppermine Road, east of Green Valley Road (Tax Map 43 Parcel 52 and Tax Map 51 Parcel 23)
- n) File #23-42CF Rippeon Farms, LLC – 166 acres on the north and south sides of Liberty Road, the north and south sides of Unionville Road, and the south side of Albaugh Rd (Tax Map 61 Parcels 21)
- o) File #23-48 Van Sant, Debbie and Michael – 165 acres on the west side of Woodville Road, across from Peddicord Road (Tax Map 71 Parcel 41)
- p) File #23-51CF Winfield, Edward – 151 acres on the east side of Picnic Woods Road, and the south side of Bidle Road (Tax Map 64 Parcel 39)

**Staff Presentation:** Anne Bradley

Ms. Bradley responded to questions from Mr. Davis about the process and the timeline. Mr. Rensberger asked about priority preservation areas and what criteria was used to include a property that is not in a priority preservation area. Ms. Sepe stated the map used for File #23-21 was an improvement and would have helped her to not vote no the prior time the property was presented.

**Public Comment:** None

**Decision:** Mr. White moved that the Planning Commission find the Fiscal Year 2023 Maryland Agricultural Land Preservation Foundation, MALPF application file numbers, 23-01, 23-04NG, 23-05, 23-10, 23-11, 23-13NG, 23-14, 23-18CF, 23-21, 23-34, 23-36, 23-40NG, 23-41CF, 23-42CF, 23-48, and 23-51CF to be consistent with the Livable Frederick Master Plan as listed in the staff report, based on the findings and conclusions of the staff report and the testimony, exhibits and documentary evidence produced at this public hearing. Mr. Rensberger, second.

VOTE      6-0-0-1

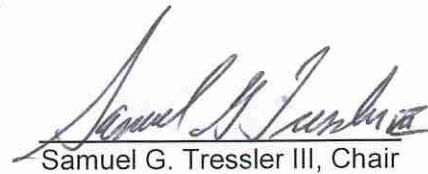
FOR:      6 – Tressler, Sepe, Rensberger, Hicks, White, Davis

AGAINST:      0

ABSTAIN:      0

ABSENT:      1 – Bowie

Mr. Rensberger moved to adjourn. Mr. Hicks, second. All in favor; Mr. Tressler declared meeting adjourned at 4:03 p.m.



Samuel G. Tressler III, Chair

9/14/22

Date