

FREDERICK COUNTY PLANNING COMMISSION
Minutes of Meeting for
May 17, 2023
In Person/Virtual Meeting

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

Members Present: Craig Hicks, Chair; Joel Rensberger, Vice Chair; Tim Davis, Secretary; Sam Tressler III, Carole Sepe; and Robert White, Jr.

Members Absent: Masai Troutman

Staff Present: Mike Wilkins, Development Review and Planning Director; Kimberly Gaines, Livable Frederick Director; Tolson DeSa, Zoning Administrator; Kathy Mitchell, Senior Assistant County Attorney; Denis Superczynski, Livable Frederick Planning Manager; Karin Flom, Livable Frederick Principal Planner I; Andy Stine, Livable Frederick Principal Planner I; and Karen James, Administrative Specialist.

The meeting was called to order at 9:30 a.m.

1. **PLEDGE OF ALLEGIANCE** – Mr. Hicks

2. **ROLL CALL** – Mr. Hicks

3. **MINUTES TO APPROVE** – March 15, 2023 Day Meeting

DECISION

Mr. Rensberger asked that the minutes be amended to include his comments regarding South Frederick Corridors Plan implementation specifics – specifics missing from the “Strategies for Implementation” to include APFO considerations. Ms. Sepe and Ms. Mitchell contributed to this conversation.

Decision: After additional discussion, Mr. Rensberger moved to approve the March 15, 2023 Day Meeting Minutes as amended. Mr. White seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

4. **EXECUTIVE COMMITTEE REPORT**

Mr. Hicks said the revisions to the Planning Commission Rules of Procedure will be presented in June.

5. **SPECIAL COMMITTEE REPORTS**

Mr. Davis of Public Participation and Outreach Committee thanked staff for providing the document that outlines all the public participation efforts that are utilized.

6. PLANNING COMMISSION COMMENTS

Mr. Davis reminded everyone that Friday, May 19 is Bike To Work Day.

7. AGENCY COMMENTS / AGENDA BRIEFING

INFORMATIONAL

Ms. Gaines announced the next meeting will be June 14 with a full agenda of Development Review items. An additional meeting on June 21 will include agenda items not completed on June 14. Staff will seek approval of the Annual Report. A Sugarloaf workshop may be added to the June 21 agenda. The public hearing for the South Frederick Corridors Plan will be held 6:30 p.m. Thursday, June 29. Two in-person open houses and a webinar have been scheduled for the South Frederick Corridors Plan.

Mr. White asked Ms. Gaines where things now stand with Sugarloaf and what lies ahead. She responded that that may be determined following today's workshop.

8. LEGISLATION

RECOMMENDATION

Bill 23-08: Amending Chapter 1-19 of the County Code (Zoning Ordinance) to Update the Floodplain District Regulations, including updates and additions to certain definitions.

Mike Wilkins, Director, Development Review and Planning
Tolson DeSa, Zoning Administrator

Staff Presentation: Tolson DeSa

Mr. DeSa and Mr. Wilkins responded to questions from the Planning Commission members and pointed out that some of the language used was required by FEMA.

Break taken at 9:50 a.m. to resolve technical issues with Public Input software. Meeting resumed at 10:02 a.m.

The timeline was reviewed along with the tight deadline to be met. Mr. Rensberger asked if the County had the ability to amend the language. Mr. Wilkins explained that FEMA was adamant that FEMA's language is the language that must be adopted.

Staff continued to respond to questions. Ms. Sepe noted language she would like to change which included, under 1-19-9.110(C)(5)(vii), name the code provision being cited at the end of the last sentence, and under 1-19-11.100, definition of Agricultural Structure, add the word "used" so that the definition reads "...excludes any structures used for human habitation".

Mr. White and Mr. Hicks both pointed out there could be no changes. Ms. Mitchell stated the two instances Ms. Sepe suggested that could be acceptable as they are minor. Ms. Sepe stated that they should have more time to review, while Mr. Wilkins explained the procedure of introducing a bill, including County Council workshop, advertising requirements, etc. prior to bringing the bill to the Planning Commission.

Public Comment: None

Decision: Mr. Rensberger moved that the Planning Commission recommend the County Council adopt the attached Bill to amend Chapter 1-19 of the County Code (Zoning Ordinance) to Update the Floodplain District Regulations, including updates and additions to the Certain Definitions, in order to remain compliant with Section 1361 of the National Flood Insurance

Act of 1968 and to include Ms. Sepe's two recommended potential edits. Mr. White seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

9. SPRING 2023 CYCLE – WATER & SEWERAGE PLAN AMENDMENTS

FINDING OF CONSISTENCY

The Planning Commission heard the following cases to determine consistency with the County Comprehensive Plan or a municipal Comprehensive Plan.

Kimberly Gaines, Director, Livable Frederick

Karin Flom, Principal Planner I, Livable Frederick

Andy Stine, Principal Planner I, Livable Frederick

WS-23-03 Becker Building Company, LLC (Briercrest Heights)

Tax Map 84, Parcel 210, Lots 4B & 4C. South side of Brook Drive at Old Middletown Road. Requesting reclassification of 0.58 acres from S-5/Dev to S-4/Dev.

Staff Presentation: Karin Flom

Applicant Presentation: Mike Swanson, Terra Solutions

Public Comment: None

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the County Comprehensive Plan for the request made in Case WS-23-03. Mr. Tressler seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

WS-23-04 Summers Family, LLLP (Summervale)

Tax Map 66H, Parcel 2159. South side of Old National Pike (Alt. 40) at Mount Phillip Road in the City of Frederick. Requesting reclassification of 97.0 acres from W-5/Dev, S-5/Dev to W-3/Dev, S-3/Dev.

Staff Presentation: Andy Stine

Applicant Presentation: Eric Soter, Rodgers Consulting, Inc.

Public Comment: None

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the City of Frederick Comprehensive Plan for the request made in Case WS-23-04. Mr. Tressler seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

WS-23-05 Antietam Ridge, LLC (Heritage Liquors)

Tax Map 65F, Parcel 82. 4334 Old National Pike. Requesting reclassification of 7.49 acres from W-5/Dev, S-5/Dev to W-4/Dev, S-4/Dev.

Staff Presentation: Karin Flom

Applicant Presentation:
Bill Brennan, B&R Design Group

Public Comment: None

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the County Comprehensive Plan for the request made in Case WS-23-05. Mr. Tressler seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

WS-23-07 Oakdale Investments, LLC (Lakeridge)

Tax Map 69, Parcel 162. East side of Lakeridge Drive (East), between Highwood Place (to the north) and Ridgepoint Place (to the south). Requesting reclassification of 12.63 acres from W-5/Dev, S-5/Dev and Planned Service (water and sewer) to W-4/Dev, S-4/Dev.

Staff Presentation: Andy Stine

Brief questions and comments from Planning Commission members.

Applicant Presentation: Fran Zeller, Harris Smariga & Associates

Public Comment: None

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the County Comprehensive Plan for the request made in Case WS-23-07. Mr. White seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe	X			
White	X			
Troutman				X

WS-23-08 Oakdale Investments, LLC (Pinehurst)

Tax Map 79, Parcel 223. North side of Boyers Mill Road at Yeagertown Road. Requesting reclassification of 9.01 acres from W-1, S-5/Dev to W-4/Dev, S-4/Dev.

Staff Presentation: Andy Stine

Applicant Presentation: Fran Zeller, Harris Smariga & Associates

Public Comment: None

Brief questions and comments from Planning Commission members.

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the County Comprehensive Plan for the request made in Case WS-23-08. Mr. Tressler seconded the motion which passed 6-0-0-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			

Tressler	X			
Sepe	X			
White	X			
Troutman				X

WS-23-09 Manor Woods Road Properties, LLC (Manor Woods Data Park)

Tax Map 94, Parcel 54. East side of Cap Stine Road at Manor Woods Road. Requesting reclassification of 63.5 acres from Planned Service (water and sewer) to W-4/Dev, S-4/Dev.

Staff Presentation: Karin Flom

Brief questions and comments from Planning Commission members. Ms. Sepe commented the application contained a letter which did not include the attachments that were mentioned.

Applicant Presentation: Tom Natelli, Natelli Communities and Manor Woods Properties LLC

Public Comment: None

Decision: Mr. Rensberger moved that the Frederick County Planning Commission reach a finding of consistency with the County Comprehensive Plan for the request made in Case WS-23-09. Mr. White seconded the motion which passed 5-0-1-1.

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe			X	
White	X			
Troutman				X

Break taken at 10:48 a.m. Meeting resumed at 10:57 a.m.

10. 2022 ANNUAL REPORT TO MDP

INFORMATIONAL

Kimberly Gaines, Director, Livable Frederick

Denis Superczynski, Planning Manager/Principal Planner, Livable Frederick

Ms. Gaines reviewed the process and deadline for submitting the annual report. She and Mr. Superczynski reviewed the prepared report with Planning Commission members, making note of their recommended edits and corrections.

Mr. Troutman joined the meeting at 11:20 a.m.

Staff will update the report with suggested edits and the Planning Commission will reach a decision on the report in June. Deadline to submit to the Maryland Department of Planning is July 1, 2023.

Mr. Troutman exited the meeting at 11:55 a.m.

11. SUGARLOAF OVERLAY

WORKSHOP

Kimberly Gaines, Director, Livable Frederick

Denis Superczynski, Planning Manager/Principal Planner, Livable Frederick

Staff presentation began with a review of the edits made to the text in response to the feedback and discussion from the last workshop. Subject matter included agritourism, design requirements, limited outdoor sports recreation facility, springwater harvesting or storage, temporary sawmills. Planning Commission members suggested additional edits to clear up language and ensure intent is clear. Use of the terms "must", "should", and "such as" were debated as was the length of time allowed for temporary sawmills.

Lunch break taken at 12:33 p.m. Meeting resumed at 1:30 p.m.

Ms. Gaines responded to questions about the process. Planning Commission members discussed their next steps and reviewed maps.

Decision: Mr. Rensberger moved that the Frederick County Planning Commission recommend, again, Map 4.6 for inclusion in the Sugarloaf Treasured Landscape Management Plan. This led to discussion by Planning Commission members, staff, and legal counsel. Motion did not receive a second. **No decision.** Discussion continued.

Decision: Ms. Sepe moved that the Frederick County Planning Commission send back to the County Council Page 53 of the Sugarloaf Rural Heritage Overlay Zoning District language that was originally submitted; Page 53, the overlay map 4.6 originally sent to them; and the revised language in Appendix A21 through A26. Mr. Rensberger seconded the motion which passed 5-1-0-1. Prior to the vote Ms. Sepe explained her position, noting that she made the motion to "wrap this up."

Planning Commission members	Aye	Nay	Abstain	Absent
Hicks-Chair	X			
Rensberger Vice-Chair	X			
Davis-Secretary	X			
Tressler	X			
Sepe		X		
White	X			
Troutman				X

12. PLANNING COMMISSION LETTER REGARDING SCHOOL ADEQUACY

DECISION

Carole Sepe, Frederick County Planning Commission

Ms. Mitchell expressed concerns raised by the letter, based on the duty of the Planning Commissioners to be impartial and not be advocates. This led to much discussion between Mr. Hicks, Mr. Rensberger and Counsel. Ms. Mitchell advised that if members want to send a letter [like the one presented], it should be sent personally from each Planning Commission member and not from the Planning Commission.

There was additional discussion and statements made by members about what they felt their role was and advocating for the good of the County and why. Ms. Mitchell then quoted portions of §1-13-22 of the County Code about impartiality and not making some kinds of statements that are inconsistent with being impartial, not making statements that might impair the fairness of deliberations or actions on matters pending. She then asked if they could delay sending this letter until they look at some of this information a little bit more and consider it.

Mr. Hicks asked if there were parts of the Land Use Article that directs the Planning Commission to provide recommendations to the legislative body on improving planning? Ms. Sepe then offered to hold the letter for next month and further discuss it with Ms. Mitchell, making it more general in terms of and related more to the annual report.

Following additional discussion about the letter, the meeting was declared adjourned at 2:30 p.m.


Craig Hicks, Chair

8/16/23
Date