

FREDERICK COUNTY PLANNING COMMISSION
Minutes of Meeting for
June 14, 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; Kathy Mitchell, Senior Assistant County Attorney; Ashley Moore, Senior Planner; Graham Hubbard, Principal Planner II; Jerry Muir, Principal Planner I; Mark Mishler, Traffic Engineer; 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, Night Meeting

DECISION

March 15, 2023 Night Meeting Minutes approved by unanimous consent.

4. **EXECUTIVE COMMITTEE REPORT**

No report

5. **SPECIAL COMMITTEE REPORTS**

MXD Committee: No report

Transfer of Development Rights Committee: No report

Public Participation and Outreach Committee: Mr. Davis thanked staff for the draft review of the annual report to the Maryland Department of Planning.

6. **PLANNING COMMISSION COMMENTS**

Mr. Davis shared a notice he received in the mail regarding the June 29th South Frederick Corridors hearing to be held at 6:30 p.m. in the first-floor hearing room at Winchester Hall. Ms. Sepe said she received a draft version of the school letter to the County Council from Ms. Mitchell. Following up on an e-mail from Mr. Rensberger, Ms. Sepe expressed her thoughts on having the Sustainability Committee review site plans and how that might work. Mr. Rensberger shared thoughts on data centers saying that the regulations the Planning Commission has and the structure that they are supposed to work with do not address all he and others feel should be addressed, and further stated they need an education and guidance.

7. AGENCY COMMENTS / AGENDA BRIEFING

INFORMATIONAL

Ms. Gaines said the agenda for June 21, 2023 will include approval of the Annual Report to be submitted to the Maryland Department of Planning prior to the July 1, 2023 deadline. The agenda will also include any Development Review items on today's agenda that are not completed due to time limitations. The next meeting will be held at 6:30 p.m. Thursday, June 29, 2023 and will be the public hearing for the South Frederick Corridors Plan. Looking ahead to July there will be two meetings scheduled. The first is the regularly scheduled meeting at 9:30 a.m. on July 12, 2023; the second will be held at 6:30 p.m. Thursday, July 20 and will be the public hearing for the Sugarloaf Overlay.

8. SITE PLAN

DECISION

- a) Hyattstown Self-Storage Units/Complex (continued from May 10, 2023) - The Applicant requested Site Plan approval to construct a self-storage unit facility on an 8.02-acre property. Located at 1920 Urbana Pike (MD 355). Tax Map 106, Parcel 34. Zoned General Commercial (GC). Planning Region: Urbana. SP07-28 (SP265223, F265225, A265226)
Graham Hubbard, Principal Planner II

History:

In September of 2022 the Planning Commission voted to deny this application. The applicant appealed the decision to the Board of Appeals and in January the BOA found the denial was arbitrary and capricious. The BOA voted to remand the site plan back to the Planning Commission for a decision based on the BOA's findings and appellant's proffer of new mitigation efforts to respond to the objections raised by the neighbors.

Mr. Hicks noted at the May 10 Planning Commission meeting they had not been provided any material related to or from the Board of Appeals case record or any documentation about the BOA decision except for a few sentences in the staff report. For this reason, Mr. Hicks asked the Planning Commission to consider postponing this discussion to another date. Decision reached to postpone to June 14, 2023.

Prior to the presentation, Mr. Rensberger announced that he did not know during the first hearing of this case (September 2022) that he had potential business interests with the applicant in the Hyattstown matter, and therefore he said it was appropriate to recuse himself.

Staff Presentation: Graham Hubbard

Questions by Planning Commission members followed the presentation including questions about traffic. Mr. Mishler addressed those questions and the changes made since the prior presentation, including removal of the northern entrance.

Applicant Presentation:

Lee Miller, Terra Solutions LLC

Michelle Rosenfeld, Law Offices of Michelle Rosenfeld LLC

Ms. Rosenfeld provided an overview of the project, including its history before the Planning Commission and the Board of Appeals. Mr. Miller said the second entrance has now been eliminated, except for the purpose of construction, leading to a specimen tree not needing to be removed. A double row of trees has been added down the western

property line to enhance screening. Additional brick facades have been added to all the buildings that face the residents on that side.

Mr. Hicks said that when the case was before the Planning Commission in September, he felt that Criterion A in Section 1-19-3.300.4 Approval Criteria for Site Plans that was of concern to him and felt it gave the Planning Commission more latitude than suggested by Ms. Rosenfeld. He then asked Ms. Rosenfeld to walk them through what's changed in the application that specifically addresses Criterion A about mitigating or minimizing negative impacts. Ms. Rosenfeld cited the elimination of a secondary access and the addition of the brick façade, and also noted the buildings are 20 feet or lower with the brick façade placed behind a double row of screening vegetation having a significant minimizing effect on the visual impact for the community.

Ms. Sepe questioned floor elevations on the site plan, leading to discovery of an error/mislabeling to be corrected on the site plan. Discussion continued with the placement of buildings. Ms. Sepe suggested that staff could work with the applicant to minimize impact of the roofs, expressing concern about their reflectiveness. The applicant agreed that any kind of HVAC equipment would be at ground level, not on the roof, and that the roof will be metal, but a non-reflective type of metal.

The lighting plan was then reviewed with Ms. Sepe asking if there was a way to minimize it, asking if there was really a need for that much lighting for a single driveway. Part of the discussion was to remove one light. Trees were then discussed. Mr. Davis received clarification of what will take place in Phase 1 and Phase 2. He also asked if there had been any meetings with the public. Ms. Rosenfeld said to her knowledge there had not and became involved after the first presentation in September.

Break taken at 10:38 a.m. Meeting resumed at 10:45 a.m.

Public Comment:

Recorded messages: 1

Live call-ins: 0

In person: 3

Rebuttal: Ms. Rosenfeld

Applicant proffered to remove the light discussed earlier (from building 13). Mr. Tressler confirmed that the reason for not having access from Md 355 was due to State Highway Administration denial. Twenty-four hour access was discussed. Ms. Sepe stated that she would like to minimize the impact to adjacent properties by limiting the hours of operation, closing at 10 p.m.

Decision: Ms. Sepe moved that the Planning Commission approve the Hyattstown Self Storage Unit Complex Site Plan SP07-28, SP265223 including APFO with modifications and conditions as listed in the staff report including the three items discussed -- roofing, lighting and hours of operation based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting, and correction to the site line on the grade levels and that the HVAC system will be at ground level. Upon further discussion Mr. White said he would not second the motion based on the inclusion of hours of operation feeling it was an excess of caution. Ms. Sepe offered to amend her motion to remove the hours of operations and offer a separate motion for the hours of operation.

Ms. Sepe then restated her motion to move that the Planning Commission approve the Hyattstown Self Storage Unit Complex Site Plan SP07-28, SP265223 including APFO with modifications and conditions as listed in the staff report and as discussed thoroughly here, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting; those conditions discussed including roofing, lighting, HVAC mechanical system on the ground and revision of the grades on the site plan. Mr. White seconded the motion which passed 4-1-0-2.

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

Decision: Ms. Sepe moved that the Planning Commission add a condition for the hours of operation to closing at 10 p.m. She then stated there was another issue in the drawing saying occupancy sensor instead of motion detector. Additional discussion led to staff saying could be corrected with an agency comment under the original condition number one. Mr. Davis cited an example of a self-storage located in Walkersville that has gate hours of 6 a.m. to 10 p.m. and offering that there is local precedent for limiting hours of operation. No opening hour was suggested with the motion, Ms. Sepe amended her motion to operating hours of 5 a.m. to 10 p.m. Motion did not receive a second. Motion failed.

- b) CORE 5 - The Applicant requested Site Plan approval to construct approximately 550,000 SQ FT of warehouse in two buildings on a 125.66-acre Site. Located at 4933 Green Valley Road (Rte. 75). Tax Map 88C, Parcel 11. Zoned Limited Industrial (LI). Planning Region: New Market. SP22-14 (SP275039, A275014, F275035)
Jerry Muir, Principal Planner I

Staff Presentation: Jerry Muir

Questions by Planning Commission members followed the presentation including questions about traffic. Mr. White expressed concerns based on prior history of the Costco warehouse and Costco trucks and assurances that he said had been made but not kept. Mr. Mishler addressed the traffic questions including additional questions from Ms. Sepe. Mr. White said mitigations described and used in the past in a similar situation have been no mitigation whatsoever. Mr. Mishler mentioned the County's Comprehensive Plan which has a relocation of Md. 75. Additional discussion led to Mr. Wilkins advising caution approving the plan based on the grounds of the future Md. 75 being built within any specific period of time. Positioning of the buildings were debated.

Cross-Examination of staff by Steve McKay.

Due to technical issues, the WebEx meeting connection was lost. Mr. Hicks announced they would take an early lunch break while the technical issues were addressed.

Break for lunch at 12:21 p.m. Meeting resumed at 1:15 p.m.

Mr. McKay did not return to the meeting. Brent Simmons continued cross-examination of staff for Mr. McKay, then conducted his own cross-examination of staff.

Applicant Presentation:

Noel Manalo, Law Offices of McNees Wallace & Nurick LLC
Paul Pontius, Core 5
Evan Mitchell, KCI Technologies
Mark Keeley, Traffic Concepts, Inc.

Traffic continued to be the main topic with Planning Commission members questioning the applicant team, including discussion of trucks that get stuck beneath the railroad bridge. The applicant team and staff responded to those questions. Signage was discussed including its location and its use in the past, as well as the addition of a roundabout. Ms. Sepe suggested an improvement by making a shift in the building location. Bike rack and parking modifications were discussed.

Cross-Examination of the applicant team by Brent Simmons.

Public Comment:

Recorded messages: 3
Live call-ins: 0
In person: 6

Break taken at 3:29 p.m. Meeting resumed at 3:38 p.m.

Rebuttal: Mr. Manalo

Mr. Rensberger confirmed that the applicant study did not include off-peak hours traffic. Mr. Mishler provided his thoughts on this as did Mr. Davis, who shared his experience with truck traffic from the Aldi warehouse on Gas House Pike, noting that the truck drivers consciously make a decision not to load traffic on to Gas House Pike in the daytime.

Mr. White continued to express concern stating that the applicant is doing everything he can but is not in a position to change human nature and the problem at this location arises from the human nature of truck drivers. Ms. Sepe questioned the escrow accounts of this project. Once again additional signage was discussed. Mr. White and Ms. Sepe continued to discuss the problem, with Mr. White expressing his concern of making a bad situation worse.

Decision: After additional discussion, Mr. Rensberger moved that the Planning Commission approve SP275039, APFO A275014, FRO F275035 subject to the conditions listed in the staff report for the proposed office warehouse development based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting to include rotating Building B clockwise to the maximum extent practicable in order to enlarge the reservation out of wetland area and to include a physical barrier to left turns out by truck traffic and to exclude the bike rack modification and to include the enhanced signage offsite to the south per the discussion at 3:54 p.m. Ms. Sepe seconded the motion and asked whether the language change in the LOU previously discussed about adding north and southbound signage on item #1 is part of the motion. Mr. Rensberger said it was. Motion passed 4-2-0-1

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

The last five items on the agenda were discussed and all members agreed to move the last five items to the June 21st agenda.

Mr. Davis asked to be recognized by the chair, and asked Mr. Mishler if he could ask a representative from SHA District 7 or Baltimore, whichever he sees fit, to attend any meetings in the future that have something around the Md. 75 bridge and realignment and talk as to where the feasibility study is and answer any other questions.

- c) *Spring Ridge Business Center* - The Applicant requested Site Plan approval to redevelop the existing facility as a Planned Commercial Development with a total of five (5) buildings consisting of 45,250 SQ FT on a 4.20-acre Site. Located at 9025 Baltimore Road, south of Old National Pike (MD 144) at Spring Ridge Parkway. Tax Map 78, Parcel 663. Zoned General Commercial (GC). Planning Region: New Market. SP19-15 (SP275158)
Graham Hubbard, Principal Planner II

Staff Presentation: Graham Hubbard

Questions by Planning Commission members followed the presentation. Mr. Davis suggested the addition and location of bike racks and sharing the plan with Transit as they may start leaning towards putting service through that area and over to Linganore. Ms. Sepe and Mr. Mishler contributed to the Transit conversation. Dumpster location was discussed and tabled until the applicant presentation. Mr. Rensberger complimented Mr. Hubbard on the use of 100 percent native landscaping and said he was "fine" with the art deco architecture.

Applicant Presentation:

Fran Zeller, Harris, Smariga and Associates

Jim Fitzgerald and Shamus Fitzgerald, Saxa Limited Partnership

Mr. Zeller provided a brief background on the project. He explained the relocation of the dumpster and the parking space and lighting modifications requested.

The Planning Commission members continued with their questions, including an existing fence and additional questions about dumpster placement.

Public Comment: None

Mr. Tressler received confirmation from the applicant that they will work with staff to relocate the northern dumpster.

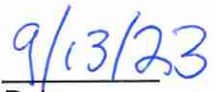
Decision: Mr. Tressler moved that the Planning Commission approve the Site Plan SP19-15, SP275158, with modifications and conditions as listed in the staff report, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Mr. Rensberger 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

The meeting was declared adjourned at 4:46 p.m.



Craig Hicks, Chair



Date