

FREDERICK COUNTY PLANNING COMMISSION
Minutes of Meeting for
September 13, 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: None

Staff Present: Mike Wilkins, Development Review and Planning Director; Kimberly Gaines, Livable Frederick Director; Kathy Mitchell, Senior Assistant County Attorney; Ashley Moore, Senior Planner; Jerry Muir, Principal Planner I; Cody Shaw, Principal Planner II; 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. **ELECTION OF OFFICERS**

Mr. Hicks suggested that the election of officers be continued to the September 20th meeting and offered reasons why. Members agreed and the election of officers was moved to the September 20th Planning Commission meeting.

4. **MINUTES TO APPROVE** June 14, 2023 **DECISION**

Ms. Sepe requested clarification of a statement on page 5 regarding CORE 5, changing "Ms. Sepe questioned the financial impact" to "Ms. Sepe questioned the escrow accounts." Minutes were then approved, with the correction, by unanimous consent.

5. **EXECUTIVE COMMITTEE REPORT** No report.
6. **SPECIAL COMMITTEE REPORTS**

Mr. White, Transfer of Development Rights Committee, reported that they had communication with Anne Bradley, Agriculture Preservation Administrator, and received a very helpful and detailed response about how agricultural preservation and TDRs might work. The committee also had good communication with others. Mr. White hopes to get to a final report prior to next month.

Mr. Rensberger, MXD Committee, intends to meet prior to the next time South Frederick Corridors is on the agenda.

Mr. Davis said the Public Outreach Committee did not have a report, but he and Mr. Tressler will carry on without an additional person until such time as the current vacancy on the Planning Commission is filled and their committee has a third member.

7. PLANNING COMMISSION COMMENTS

Mr. Tressler asked if there was an update on a replacement for Mr. Troutman. Mr. Hicks said applications have been received and interviews have been scheduled. Mr. Davis asked for an update to the legislative priorities letter drafted and submitted to the County Executive by staff. Mr. Wilkins said that the County Executive's team is currently reviewing the long list of recommendations made by various boards, commissions, and divisions.

8. AGENCY COMMENTS/AGENDA BRIEFING

INFORMATIONAL

Ms. Gaines announced the September 20th meeting would include the Summer Cycle Water and Sewer Amendments, and a second workshop on the South Frederick Corridors Plan. For the October 11 meeting, Mr. Wilkins announced one County Council Bill for recommendation and several Development Review items, including a preliminary plan, site plans, and a combined preliminary final plat. Livable Frederick items for October 11 will include a South Frederick Corridors Plan workshop, and possibly the Sugarloaf Treasured Landscape Plan Amendment: Sugarloaf Rural Heritage Zoning Overlay District for recommendation. October 19 (evening) will be the Knowledge Farms rezoning public hearing.

Mr. Wilkins introduced new Division Director, Deborah Carpenter, who shared her background and experience with the Planning Commission members.

9. CHANGES TO THE PLANNING COMMISSION RULES OF PROCEDURE **DECISION**

Planning Commission Executive Committee

Decision: Having no additional discussion, Mr. Rensberger moved that the Frederick County Planning Commission adopt the amendments to the Rules of Procedure for the Frederick County Planning Commission as presented this day, September 13, 2023 Mr. Tressler seconded the motion which passed 6-0-0-0.

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

Mr. Hicks noted that under the newly amended Rules of Procedure, officers are elected in October, not September. Election of officers will be continued to the October 11th meeting.

10. SITE PLAN **DECISION**

Continued from August 9, 2023

- a) Quantum Lot 112A Substation - The Applicant requested Site Plan approval for the construction of a critical digital infrastructure electric substation use on a 19.42-acre

parcel. Located at the east side of Ballenger Creek Pike. Tax Map 94, Parcel 70. Zoned General Industrial (GI). Planning Region: Adamstown. SP22-04 (SP273757, F274907)
Cody Shaw, Principal Planner II

This item was continued at the request of the Planning Commission so that the applicant could provide additional information. Supplemental documents were received by the deadline given and provided to Planning Commission members, staff and posted to the County website.

The August 9th meeting ended at the beginning of Planning Commission deliberations. Public comment was closed at the prior meeting however it was agreed to take public comment during the September 13th meeting on the new information provided.

Staff Presentation: Cody Shaw

Mr. Shaw offered a brief recap of the case. Staff continued to recommend conditional approval based on the new information provided.

Applicant Team:

Kraig Walsleben, Rodgers Consulting
Noel Manalo, Offit Kurman
Justin Walter, FirstEnergy
David Kline, Potomac Edison

Mr. Walsleben referenced the new multi-page, comprehensive sound study, which was provided, noting that it came to the same conclusion as before. He then explained the sound study and the results. Testimony by Mr. Walsleben included the final approval of the site plan will not occur until MDE grants final approval to the associated Environmental Management Plan. Size, location and landscaping were discussed with 100% native landscaping to be used. Mr. Kline explained that the location of lines will be the same as before and responded positively to questions about having enough power.

The applicant agreed that lighting will be turned up only during unscheduled emergency maintenance occurring during the nighttime hours. The brownfield site was discussed relative to the location of this site. Mr. Walsleben then explained the proposed grading and stormwater management strategy which will have to meet all the stormwater management guidelines including water quality and quantity control.

Ms. Sepe expressed concern about the possibility of users other than data centers and what that could trigger. It was then explained that this is being approved as a CDI substation and under CDI regulations it can only serve CDI usage. Hypothetical situations were discussed.

Mr. Wilkins offered that if there were a time that a user was not a CDI user, then that would require an evaluation and determination of the applicability of the Board of Appeals process, which would then likely result in an amended site plan at some level. Mr. Hicks commented that Mr. Wilkins' testimony is that the current process could accommodate such a situation and is not uncharted territory. Mr. Wilkins agreed.

Public Comment:

In Person: 1
Recorded messages: 0

Live call-ins: 0

Mr. Hicks then addressed some of the concerns expressed during public comment, particularly those involving the site and disturbance of the soil (and not the substation itself), as did Mr. Rensberger.

Applicant Rebuttal: Mr. Walsleben and Mr. Manalo.

The Environmental Management Plan was further discussed. Mr. Walsleben responded to concerns about legacy materials in the brownfield and the use of clean material being used from a borrow pit. Mr. Walter talked about substation construction, explaining that this is not their first brownfield site.

Ms. Mitchell provided additional guidance to the Planning Commission members, followed by brief discussion and comments by the members. The possibility of users other than data centers was again debated.

Break taken at 11:36 a.m. Meeting resumed at 11:48 a.m.

Mr. Rensberger shared public comment received by written correspondence, the concerns that were expressed, and how they have been addressed. Ms. Sepe reviewed proffers, including updating the plan to include the additional material provided (at the Planning Commission's request), lighting will be turned up only during unscheduled emergency maintenance that occurs during the nighttime hours, and final approval of the site plan cannot occur until Maryland Department of the Environment grants final approval to the associated Environmental Management Plan. Ms. Sepe asked for members' input on Phase 1 versus Phase 2 approval, sharing that she had no problem with Phase 1 approval, but had concerns about Phase 2. Mr. Rensberger said that to split an application apart to cause the Commission to hear another case or lengthen another case in the future because of a possibility of law breaking that has not occurred seemed aggressive, and he was uncertain that that is their role. Ms. Sepe said it was not about law breaking, but about what could potentially become part of a special exception.

Mr. Davis added that this did not happen overnight and that there probably has been years of work going into this; the applicant will need that power for data center development, and they should not have to split it up.

Decision: Mr. Rensberger moved that the Planning Commission conditionally approve the amended Site Plan SP22-04, AP SP273757, with conditions and modifications as listed in the staff report for the proposed Quantum Lot 112A Electric Substation, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting, including the Rodgers Consulting letter of August 31, 2023, the condition is that the plan not be signed by staff until an approved EMP or environmental management plan is in place with the Maryland Department of the Environment and the stipulation that the lighting is for unscheduled maintenance only. Mr. Tressler seconded the motion which passed 4-2-0-0.

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

Tressler	X			
Sepe		X		
White		X		
Vacancy				

11. PRELIMINARY PLAN

DECISION

a) Hamptons East Creekside - The Applicant requested Preliminary Subdivision Plan approval for 214 single-family lots and 221 townhouse lots on a +/- 181.85-acre Site. Located on the north side of Gas House Pike. Tax Map 69, Parcel 202. Zoned Planned Unit Development (PUD). Planning Region: New Market. S-829N (PP274981, A274982, F274985)

Cody Shaw, Principal Planner II

Staff Presentation: Cody Shaw

Staff responded to Planning Commission member questions including some that will be answered by the applicant team during the site plan presentation. Mr. Davis questioned the placement of meeting notification signs. Mr. Shaw explained the process and regulations. Mr. Mishler responded to questions about roadways. The proposed roads within the subdivision are private roads, not county-maintained public roads. Mr. Mishler also confirmed that these will be paved roads, not dirt or gravel.

Applicant Presentation:

Jason Wiley, Elm Street Development
 Fran Zeller, Harris, Smariga & Associates
 Noel Manalo, McNees Wallace & Nurick
 Ralph Mobley, Elm Street Development

Mr. Wiley offered a brief history of the property, as well as the neighboring properties in Lake Linganore. Roads, signage and outreach were discussed. Mr. Wiley also confirmed that the applicant has provided a letter from Lake Linganore Association HOA stating that they are agreeable to taking ownership and maintenance of the proposed private roads. Mr. Rensberger complimented the applicant team for being over-treed and 100% native to Frederick County. Wet soils were discussed and the steps that will be taken to direct water from a house.

Ms. Sepe commented that she would like to see additional landscaping along Gas House Pike (to the southern side of the proposed townhomes). Mr. Wiley mentioned power lines in that area and the possibility of smaller trees such as Dogwood and Hawthorne. Applicant team agreed to additional landscaping. Ms. Sepe pointed out that needs to be a revision of note 1 on the cover sheet to include references to the APFO LOU amendments.

Public Comment:

In Person: 0
 Recorded messages: 2
 Live call-ins: 0

Mr. Rensberger shared public comment received by written correspondence. Traffic, roundabouts and crosswalks were discussed.

Applicant Rebuttal: None. Applicant was satisfied with the discussion that took place following public comment and felt they had addressed all the issues raised during public comment.

The request for 435 lots was previously approved in 2013 with a cap of 435. The current DRRA is valid through 2038. It failed the APFO schools test, but School Construction Fees fees were paid as required.

Decision: Mr. Rensberger moved that the Planning Commission approve Preliminary Subdivision Plan S-829N, PP274981, A274982, F274985 with modifications and conditions as listed in the staff report for the proposed 214 single-family and 221 townhouse lots within Hamptons East - Creekside, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Ms. Sepe asked that the motion be amended to include revision of note 1 to include references to APFO LOU amendments, and revision of the landscaping to include additional landscaping along Gas House Pike to the southern side of the proposed townhomes. Mr. Rensberger agreed to amending the motion. Ms. Sepe seconded the motion which passed 6-0-0-0.

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

Break for lunch at 1:08 p.m. Meeting resumed at 2:00 p.m.

12. SITE PLAN

DECISION

- a) Hamptons East Creekside Townhouses - The Applicant requested Site Plan approval to construct 221 townhouse lots on a +/- 181.85-acre Site. Located on the north side of Gas House Pike. Tax Map 69, Parcel 202. Zoned Planned Unit Development (PUD). Planning Region: New Market. SP22-13 (SP274988)
Cody Shaw, Principal Planner II

Staff Presentation: Cody Shaw

Staff responded to Planning Commission member questions. High visibility lots were discussed, and staff indicated the applicant proffered to work with staff to identify missing high visibility lots. Mr. Davis questioned the schools adequacy test, confirming that there was a typo in the preliminary plan. Parking was then discussed with Mr. Mishler. Mr. Rensberger then mentioned the public view shed from Central Church Road and the view of the townhouse roofs which then led to a discussion of landscaping.

Applicant Presentation:

Jason Wiley, Elm Street Development
Fran Zeller, Harris, Smariga & Associates
Noel Manalo, McNees Wallace & Nurick
Ralph Mobley, Elm Street Development

Mr. Wiley pointed out there are some existing mature pine trees outside of the development envelope and the rendering does not highlight the existing buffer trees. The applicant proffered the Limit of Disturbance along Central Church Road will be revised to preserve the existing trees, to the maximum extent practical. Units will be offset front to back. The roundabout and crosswalk were discussed, as was the use of native landscaping. It was then discovered that Norway Spruce was on the list (not native) and that it could be replaced with Virginia Pine or a White Pine.

Mr. Davis recommended bike racks at the play areas and Mr. Wiley agreed to the bike racks. The possibility of pickleball courts were discussed with the suggestion of an additional tree between the pickleball courts and townhouses across the street.

Public Comment: None

The high visibility lots were discussed again, with Mr. Wiley confirming they would work with staff to identify them.

Decision: Mr. Rensberger moved that the Planning Commission approve Hamptons East - Creekside Townhomes Site Plan SP22-13, SP274988 with conditions as listed in the staff report, to construct 221 Townhomes on a 181.85-acre Site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting including testimony that units will be offset front to back, trees will be native, a tightened LOD along Central Church Road for the purpose of enhanced screening will be provided, additional high visibility lots to be identified at the corners, bike racks to be added at the amenities, and that a note be added regarding the amended LOUs. Mr. White seconded the motion which passed 6-0-0-0.

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

b) Iglesia – The Applicant requested site plan approval to convert an existing house and garage into a 3,419 SF Place of Worship on a 1.9-acre lot. Located at 9822 Hansonville Road. Tax Map 48, Parcel 258. Zoned Agriculture (A). Planning Region Frederick. SP 22-09 (SP273639).

Jerry Muir, Principal Planner I

Staff Presentation: Jerry Muir

Ms. Sepe had questions about the entrance access, with Mr. Mishler offering answers and explaining the advantages of the proposed arrangement. There were no additional Planning Commission questions.

Applicant Presentation:

Lee Miller, Terra Solutions Engineering
Pastor Inmar Hernandez

Mr. Miller gave a brief history of the property and project, including the church's plans for the property and the length of time that has been spent on this project. Mr. Miller indicated that Pastor Hernandez has reached out to neighbors, explaining that this will be an addition and not a tear-down.

Planning Commission members then asked questions. Mr. Tressler asked how many would be attending the church (25-50). Mr. Rensberger had questions about the well above and below the proposed septic areas. Mr. Miller explained the review and approval given by the Health Department.

Public Comment:

In Person: 0

Recorded messages: 1

Live call-ins: 0

Applicant Rebuttal: Mr. Miller and Pastor Hernandez responded to comments about traffic.

Decision: Mr. Tressler moved that the Planning Commission approve SP273639, FRO F273697 subject to the modifications and conditions listed in the staff report for the proposed Iglesia Evangelica Church establishment, 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 6-0-0-0.

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

c) Montecito Industrial Park, Lot 3 – The Applicant requested site plan approval for a change of use to convert a single user office and warehouse building into a multi-tenant building on a 3.45-acre Site. Located at 2502 Urbana Pike. Tax Map 105, Parcel 152. Zoned Limited Industrial (LI). Planning Region Urbana. SP82-03 (SP265109).

Jerry Muir, Principal Planner

Staff Presentation: Jerry Muir

Staff responded to questions by Mr. Tressler regarding multi-tenant use and Ms. Sepe about the asphalt entrance connecting to gravel. Lighting was discussed and described as mainly wall packs directed downward with shielding required.

Applicant Presentation:

Lee Miller, Terra Solutions Engineering

Mr. Miller talked about the history of the plan, going back many years, including its unique septic system and proposed construction to redirect runoff. Lighting was further discussed. Mr. Miller finished his presentation responding to questions from Ms. Sepe about parking and setbacks.

Two existing parking spaced continued to be discussed as they are currently non-conforming.

Public Comment: None

Decision: Mr. Tressler moved that the Planning Commission approve SP265109, APFO A265112, FRO F265113, including APFO approval, with conditions as listed in the staff report for the proposed Montecito Industrial Park Lot 3, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting. Mr. White seconded the motion. Ms. Sepe asked that the motion be amended because the staff report still talks about the modification, and asked for approval of the two existing spaces along Montecito Drive to remain as non-conforming. Mr. Tressler and Mr. White agreed to amend the motion, which passed 6-0-0-0.

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

The meeting was declared adjourned at 3:35 p.m.


Joel Rensberger, Chair

12/13/23
Date