

**WASHINGTON COUNTY PLANNING COMMISSION  
PUBLIC HEARING AND REGULAR MEETING  
August 6, 2025**

The Washington County Planning Commission held its regular monthly meeting and a public hearing on Monday, August 6, 2025 at 6:00 p.m. at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

**CALL TO ORDER AND ROLL CALL**

The Chairman called the meeting to order at 6:00 p.m.

Planning Commission members present were: David Kline, Chairman; Jeff Semler, Vice-Chairman; Denny Reeder, Jay Miller, Terrie Shank, BJ Goetz, and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Senior Planner; and Misty Wagner-Grillo, Planner.

**OLD BUSINESS**

**Fast Gas Company [RZ-25-006]**

Mr. Allen reminded members that a public input meeting was held on July 7, 2025 to consider a map amendment application for the rezoning of three properties totaling .891 acres on Virginia Avenue and Brookmeade Circle. The applicant contends that a mistake was made during the 2012 Urban Growth Area comprehensive rezoning and is requesting a change in zoning from RT (Residential Transition) to HI (Highway Interchange). The applicant believes that all properties west of Hoffman Drive should have been rezoned HI; while the properties east of Hoffman Drive are more residential in nature. Three people spoke in opposition to the request due to potential impacts on adjacent residential properties because of the expanded commercial operations proposed by AC&T.

**Motion and Vote:** Mr. Goetz made a motion to recommend approval of the map amendment application to the Board of County Commissioners to change all three properties from RT to HI. The motion was seconded by Mr. Miller and unanimously approved with Commissioner Wagner abstaining from the vote.

**NEW BUSINESS**

**MINUTES**

**Motion and Vote:** Mr. Miller made a motion to approve the minutes of the July 7, 2025 Planning Commission public rezoning input meeting and regular meeting as presented. The motion was seconded by Ms. Shank and unanimously approved.

**ORDINANCE MODIFICATION**

**Erik Stottlemeyer [OM-25-007]**

Ms. Wagner-Grillo presented an ordinance modification request to allow two panhandle lots in excess of 400-feet and the stacking of three properties. The property is located at 12324 Saint Paul Road in Clear Spring and is currently zoned A(R) – Agricultural Rural. The total site acreage is 45.75-acres; the proposed total lot acreage for Lots 30, 31 and 32 is 9-acres. The proposed panhandle for Lot 31 is 407.08-feet and the proposed panhandle for Lot 32 is 671.24-feet. The applicant's justification statement indicates that the existing parcel has an existing access point along National Pike, the boundaries for the existing parcel forms an irregular shape with narrow road frontage of 195-feet along National Pike, and the irregular shape and narrow road frontage limits the number of lots that can be subdivided even though the parcel has adequate acreage. All three lots would use the existing entrance to minimize points of entry onto National Pike.

**Motion and Vote:** Mr. Semler made a motion to approve the ordinance modification request as presented. The motion was seconded by Mr. Reeder and unanimously approved.

**SUBDIVISIONS**

**The Run at Elizabethtowne [PP-24-003]**

Ms. Wagner-Grillo presented a preliminary plat for a 72-lot single-family subdivision located at 17755 Halfway Boulevard. The parcel is 34-acres in size and is currently zoned RU (Residential

Urban). The minimum lot size in the RU zone is 6,500 square feet; the proposed minimum lot size in the development is 6,600 square feet. The average lot size is 8,481 square feet. Sidewalks are proposed in this development. The property is served by public water from the City of Hagerstown and public sewer from Washington County. One entrance is proposed from Halfway Boulevard. Jazz Walk is proposed to connect to the Lincolnshire Elementary School property and will be a private road that will be conveyed to the Washington County Board of Education. Proposed are a crosswalk at Jazz Walk, extended walkways, and some improvements for parking at the school. Open space is proposed throughout the development for a total of 7.81-acres. The open space will contain forest conservation easements. The remaining lands on the east side of Halfway Boulevard will include 4.25 acres of forest easements. There are three storm water managements outlots proposed. The required parking is 144 spaces; two spaces per driveway is proposed for a total of 144 spaces plus street parking along the curbs. A sign is proposed at the Halfway Boulevard entrance. Community mailboxes throughout the development are proposed. A HOA is also proposed for the development. Approvals from Land Development, Engineering, the Health Department, Water Quality and the Soil Conservation District are pending.

#### ❖ Forest Conservation

Mr. Allen presented a request to remove seven specimen trees on the site and to utilize the payment-in-lieu of planting option to satisfy 7.03 acres of overall planting requirements. He explained that this is the preliminary forest conservation plan; the final conservation plan will be submitted with the final plats during each phase of the development. There is a total planting requirement of 8.99-acres resulting from disturbance of 32.09-acres.

**Discussion and Comments:** Mr. Goetz asked if the entrance from Oak Ridge Drive will be right-in/right-out only. Mr. Poffenberger of Fox & Associates stated it will be right-in/right-out only.

**Motion and Vote:** Mr. Goetz made a motion to approve the preliminary plat contingent upon all agency approvals. The motion was seconded by Mr. Miller and unanimously approved.

**Motion and Vote:** Mr. Reeder made a motion to approve the removal of seven specimen trees and to utilize the payment-in-lieu of planting option as presented. The motion was seconded by Mr. Semler and unanimously approved.

#### SITE PLANS

##### Maugansville Ag Machine Shop [SP-23-048]

Ms. Wagner- presented a site plan for a proposed 13,772 sq. ft. machine shop located at 15244 Fairview Road in Clear Spring. The parcel is 9.62 acres and is currently zoned RV and A(R) – Rural Village and Agricultural Rural. The Board of Zoning Appeals approved the establishment of a machine shop facility in 2022. The site will be served by private water and private sewer. Hours of operation will be Monday, Thursday and Friday from 7:30 a.m. to 5:00 p.m. Freight and delivery will be one time per week for a semi-truck delivery and three times per week for box truck deliveries. Eight employees are proposed. Thirteen parking spaces are required; thirteen parking spaces will be provided. No lighting is proposed. A 10 x 13-foot monumental sign is proposed. Trash will be collected in an on-site dumpster. Landscaping is proposed along the property lines with residential dwellings. Forest conservation requirements were previously approved in 2022. Approval is pending from the State Highway Administration.

**Motion and Vote:** Mr. Goetz made a motion to approve the site plan contingent upon approval from the State Highway Administration. The motion was seconded by Mr. Semler and unanimously approved.

#### OTHER BUSINESS

##### Harry Martin Keadle, Lot 1 [S-23-029]

Ms. Wagner-Grillo presented a request for a one-year extension of the preliminary/final plat for a one lot intrafamily subdivision located at 10945 McCoy's Ferry Road. The project was submitted and accepted on July 12, 2023. The one-year extension would expire on July 12, 2026.

**Motion and Vote:** Mr. Reeder made a motion to approve the one-year extension as presented. The motion was seconded by Ms. Shank and unanimously approved.

##### Townes at Rockspring, Phase 1 [S-23-023]

Ms. Wagner-Grillo presented a request for a one-year extension of the final plat for 58 townhouse lots with associated street right-of-way, storm water management and open space areas located at

11049 Mount Edward Drive. The project was submitted and accepted on August 21, 2023. The one-year extension would expire on August 21, 2026.

**Motion and Vote:** Mr. Miller made a motion to approve the one-year extension as presented. The motion was seconded by Ms. Shank and unanimously approved.

**Motion and Vote:** Ms. Shank made a motion to adjourn the regular meeting at 7:20 p.m. The motion was seconded by Mr. Miller and so ordered by the Chairman.

### **PUBLIC HEARING – BLACK ROCK PUD REMAND**

The Chairman called the public hearing to order at 6:20 p.m.

Ms. Baker presented a brief timeline of events for the Black Rock PUD within a written staff report that was submitted to the Planning Commission members prior to the public hearing. She noted that Dan Ryan Builders have made several requests to make changes to the approved development plan. The final proposal was reviewed by the Commission to determine if the proposed changes would be considered a major or minor change. If the change was considered a minor change, the developer could move forward with the development plan process. If the change was considered a major change, the developer would be required to go through a new rezoning process. In April of 2022, the Planning Commission reviewed the final development plan that was submitted and decided that it was a minor change. Their decision was appealed to the Board of Zoning Appeals in May of 2022. The Board of Zoning Appeals held two public hearings, one on July 21<sup>st</sup> and one on August 18<sup>th</sup>. The Board's final opinion issued in September of 2022 supported the Planning Commission's decision. In October of 2022, the case was appealed to the Circuit Court of Washington County. On April 1, 2024, the Circuit Court issued its opinion finding a lack of evidence and remanded the case back to the Board of Zoning Appeals. The defendant then appealed the case to the Appellate Court of Maryland and later withdrew that appeal. Withdraw of the appeal meant that the opinion of the Circuit Court was still in place and that the Board of Zoning Appeals would be required to address the remand. During their March 19, 2025 regular meeting, the BZA considered the Court's opinion and determined that further analysis would be needed by the Planning Commission in order for the BZA to make their final decision. They then remanded the issue back to the Planning Commission for further analysis.

As part of the Circuit Court's hearing, there were four distinct issues presented by the Mt. Aetna Advocacy Group (the Plaintiff in the court case). These four questions were detailed within the staff report presented to the members prior to the meeting. In brief, the questions are:

1. Has the Black Rock PUD (development plan) expired because the development plan was approved and did not take effect for two years?
2. Is the Black Rock PUD (zoning district) valid?
3. Was there a violation of Section 24.4(b) in the Zoning Ordinance with regard to the timeframes set forth for re-submittal of each application?
4. Should this development plan be considered a major or minor change?

### **Public Comments**

- Sean Cooley, 1001 Fleet Street, Floor 9, Baltimore, MD, representing the Mt. Aetna Advocacy Group – Mr. Cooley noted that the new developer is proposing a different plan; however, the issues raised by the Circuit Court are applicable to the new development plan as well. He believes that when an appeal was filed with the Appellate Court of Maryland, this was an attempt to stall in order to present the new "Arborview" development plan to the Planning Commission. Other points to consider within the Circuit Court's opinion and staff's recommendations are as follows:
  - Argument #3: Reduction of the estimated daily usage of water and sewer from 300 gallons/day to 200 gallons/day had no rationale. Staff's recommendation is that it is safe to say that 200 gallons/day would be appropriate based on County policies in measuring usage; however, it is not clear why that would not be a major change or would contribute to a major change.
  - Argument #4: The Planning Commission needs to consider storm water management during the development plan process. Staff believes that no further analysis is needed because the Circuit Court did not focus on this issue. Mr. Cooley believes that this issue should still be a consideration of the Commission.
  - Argument #5: The Circuit Court found diminished amenities in the proposal, and combined with other proposed changes, this is a major change. Staff believes that because of the potential reinstatement of these amenities, there is no reduction in the amenities.
  - Argument #6: The proposed plan shows a 7-foot increase in the maximum height of the townhouses and a 15-foot increase in the maximum height for the multi-family units. These differences need to be considered by the Commission.

In conclusion, Mr. Cooley asked the Planning Commission to carefully examine the Circuit Court's opinion and to follow all the detailed instructions set forth. The Mt. Aetna Advocacy Group considers this development plan a major change. Mr. Cooley believes that staff is considering each change individually when they should be considered as one major change.

- Matt Powell, DRB Homes, 10313 Arnett Drive, Hagerstown – Mr. Powell stated that DRB Homes purchased the property in October of 2024 with the understanding that the PUD was invalid. DRB Homes fully supports staff's recommendation that the PUD zoning has expired and is no longer valid. The developer is pursuing a new development plan which is proposing a "by right" development in accordance with the underlying zoning.
- Melanie Goldsborough, 10935 Sassan Lane, Hagerstown – Ms. Goldsborough expressed concern regarding the proposed density (including the apartments) which would lead to overcrowding in the peaceful community in which she and her family now live. Her husband is a combat veteran of the Iraqi war and chose this development and location because of the anxiety he experiences in densely populated areas.
- Sharon Petersen, 20510 Shaheen Lane, Hagerstown – Ms. Petersen explained that she has attended several of the previous meetings regarding this development. She believes there is a lack of cohesive planning and that this development would greatly affect her quality of life.

With no other persons seeking to comment on the issue, the public hearing was then closed.

**Discussion and Comments:** Ms. Baker explained that in 2015, the County performed a comprehensive rezoning of the urban areas. At that time, the PUD zoning district was abandoned and a new mixed use zoning district took its place; any existing PUDs were grandfathered. Staff recommend that the PUD be invalidated. Mr. Goetz questioned that if the PUD is invalidated, would any and all development plans also be invalidated. Ms. Baker explained that if the zoning is found to be invalid, the development plan will be invalid; however, the Court's opinions must still be addressed by the Commission. Ms. Baker lead a comprehensive review of the Court's opinions and questions as follows.

Question #1: Has the Black Rock PUD development plan expired?

On March 2, 2022, the Planning Commission approved a development plan with language that stated, "the plan is effective for a period of two years"; thereby that plan would expire on March 2, 2024. However, the Circuit Court has stated that there is no explicit language within the Zoning Ordinance that determines when a development plan expires. Therefore, the Court affirmed the Board of Zoning Appeals opinion that the development plan did not expire.

Question #2: Is the Black Rock PUD zoning valid or invalid?

The Circuit Court went to individual sections of the Zoning Ordinance that deal with the timelines required to maintain the validity of a PUD zone. A timeline of events that occurred with regard to this PUD was provided within the Staff Report. Ms. Baker reviewed each submittal deadline and the actual dates that the submittals occurred. The Planning Commission must provide findings as to why the PUD floating zone should be found invalid. As shown in the Staff report, a site plan was approved on February 27, 2009 and that construction did not commence within the one (1) year timeframe designated in Section 16A.6.e.3. Staff recommends that upon further review, the developer violated Section 16.A.6.e of the Zoning Ordinance because they did not meet the submittal time frames as required by the Ordinance; therefore, it appears the PUD would be invalid. The Planning Commission could initiate a rezoning which would go before the Board of County Commissioners stating that the PUD is invalid and requesting that the property be returned to its original zoning.<sup>1</sup> Staff is seeking a consensus from the Planning Commission that the PUD zoning district should be considered invalid because it violates Section 16.A.6.E of the Zoning Ordinance.

**Consensus:** The Planning Commission supports the Circuit Court's opinion and Staff's recommendation that the PUD zoning district is invalid because it violates Section 16.A.6.e of the Zoning Ordinance.

Question #3: Was there a violation of the Zoning Ordinance as it pertains to the amount of time required between applications and when denial occurs? This question refers to Section 24.4.b of the Zoning Ordinance.

**Comments:** Mr. Goetz expressed his opinion that if the Planning Commission agrees that the PUD is invalid, the remaining questions are moot and should not need further consideration. Ms. Baker explained that this is a court remand; therefore, all issues addressed by the Court must be reconsidered by the Commission. The County Attorney has instructed staff that this matter needs to be addressed in its entirety.

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<sup>1</sup> Upon further review by the County Attorney's office after the public hearing, it was determined that the Planning Commission does not have the legislative authority to initiate a piecemeal rezoning.

Staff's opinion on Question #3 is that the Planning Commission did not violate Section 24.4.b of the Zoning Ordinance because no formal application was made. When the changes in question were proposed, the developer was only seeking the advice of the Planning Commission. There were no formal applications submitted, no fees paid, no review by staff, no outside agency review, and no approvals or denials were given; therefore, no timeline was started.

**Consensus:** The Planning Commission supports Staff's analysis that no formal applications were made; therefore, no timeline was started because no approvals or denials were given.

**Question #4:** Are the proposed changes, in fact, minor as determined by the Planning Commission and affirmed by the BZA? Ms. Baker explained there were several points of consideration under this question. Staff has done its best to evaluate each of these points and agree with the Mt. Aetna Advocacy Group's attorney that these changes need to be considered in a cumulative manner and not on an individual basis.

- **Argument #1:** Configuration of lots - The proposed plan moved denser development to the southeast corner of the property as opposed to spreading it throughout the property as shown on the original development plan.
- **Argument #2:** The clustering of 485 dwelling units on less than half of the property as opposed to spreading it throughout the property as shown on the original development plan.

Ms. Baker noted that the original approved PUD plan consisted of 595 dwelling units. In 2022, a public hearing was held because the developer requested a major change in the development plan proposing 1,100 dwelling units. This request was denied by the Board of County Commissioners. Following that decision, the developer realized that the development could not be more densely populated so they began seeking the Planning Commission's advice to shift the location of the dwelling units on the property. Staff stated that the court combined their findings for these two questions and that the questions have a broad range of issues that contribute to the cumulative argument being made. Therefore, analysis of these questions can be found in various sections of the Staff report.

- **Argument #3:** Water and sewage usage that changed from 300 gallons per day to 200 gallons per day. The Court agreed with the Mt. Aetna Advocacy Group that the change was a significant change and no justification was provided regarding the change. Ms. Baker stated that during her research for the staff report, she could not find any documentation explaining why 300 gallons per day was used in the original plan and there is no longer anyone on staff with that historical knowledge.

Ms. Baker stated that she used, in her analysis, an EDU (equivalent dwelling unit) to calculate how much each use would generate. The County has adopted a policy whereby 1 EDU is assumed to be equal to 200 gallons per day both for water and sewerage calculations. This information is provided in the Staff Report. There has not been any justification as to why there was a change and whether it was significant.

**Comments:** Mr. Goetz expressed his opinion that this should not be considered a major change because the developer is proposing to use less water and sewerage which benefits the County overall. Mr. Semler concurred.

- **Argument #4:** Reduction of stormwater management areas. Staff noted that the court didn't seem to accept this point as a reason for determining major vs. minor changes. Staff recommended that further analysis wasn't needed.

**Discussion:** Mr. Goetz questioned the Court's opinion regarding the analysis of the storm water management issue. Typically, an initial storm water management area is shown on the development plan; however, calculations are based on covered surfaces and are part of the site plan/subdivision phase. Ms. Baker explained that preliminary work such as where the watershed is located, how water will drain on-site, where the most likely area for the storm water ponds would be located, etc. is needed. She believes that the Court felt the Planning Commission did not give these issues full consideration.

Ms. Baker further explained that the original development plan prepared in 2002 was developed under a different set of storm water management regulations. The State made significant changes to the regulations in 2009. Therefore, the question remains, did the Planning Commission have sufficient information at that stage to determine if the changes were major or minor changes?

- **Argument #5:** Reduction in space for amenities – Ms. Baker stated that the 2002 development plan showed approximately 8-acres of recreational amenities. The plan that was submitted for the major or minor change (proposal #3) showed 3 ½-acres of recreational amenities and did not specify a timeline of when these improvements would occur. According to the Court,

the 2002 plan for the Black Rock PUD created a “country club” atmosphere that included tennis courts, a club house, swimming pool, etc. The third proposed plan submitted for the Planning Commission’s advice proposed open play areas, play areas with equipment, etc. Ms. Baker noted there was a revision made to the development plan in 2020 which affected the amenities (loss of club house, etc.) previously proposed. Therefore, the amenities proposed in proposal #3 reinstated some of the amenities that were removed in 2020. Ms. Baker also noted in her staff report that this development is directly across the street from the Washington County Regional Park which has amenities such as baseball fields, playgrounds, etc.; however, this should not be a substitute for amenities within the development.

- Argument #6: Building height – Proposal #3 proposed a 17% increase in the height of townhouses and a 27% increase in the multi-family units. Ms. Baker explained that she and the Court performed a very simplified analysis of this issue on an individual basis. She reiterated that this issue needs to be considered in tandem with all other proposed changes. Staff believes that the height of the apartment buildings could be considered a major change depending on the context and spatial requirements.
- Argument #7: Implementation of the Plan – Ms. Baker noted that Section 16.A.4.j of the Zoning Ordinance states, “each phase of the development must conform to the same density as the overall development”. Based upon the information provided, this plan appears to be in violation of Section 16.A.4.j of the Ordinance.
- Other considerations of the Court include:
  - Should the adequacy or lack of adequacy of public facilities/infrastructure be considered including adequacy of schools, water (generally), water for fire suppression, sewers, roads, and emergency services. The Mt. Aetna Advocacy Group argued that adequacy of public infrastructure is a very important factor in deliberating whether a change is major or minor. The Court’s opinion is the Planning Commission did not make the required “findings of fact” or perform the required analysis as to the adequacy of the facilities or infrastructure. Ms. Baker believes that during a preliminary review, it is very difficult to know what the impacts will be on infrastructure in the future. It was noted during the public hearing in 2022, there are issues with water pressure in this area and concerns regarding fire suppression. The developer, at that time, set aside land for a water tower to accommodate these issues, if needed.
  - Should the Planning Commission have re-evaluated the traffic impacts? – Ms. Baker noted that traffic impact studies were completed in 2002 and again in 2022. Specifically, when the rezoning application was submitted, for the 1,100 units, a traffic study was completed to determine what road improvements would be required for full build out. Ms. Baker does not believe another traffic impact study was completed when the developer proposed reducing the number of units to 585, which was part of proposal #3. By reducing the number of dwelling units, it seems logical that the traffic impact would be less. However, there was not a traffic impact study completed.

**Comments:** Mr. Kline expressed his opinion that until a final configuration of the development is established, due to moving entrances and exits around on the property, the traffic impact should not be considered until the site plan stage. Mr. Miller expressed his opinion that because the number of dwelling units was reduced, by half, logically you would assume there would be less traffic; therefore, a new traffic study should not be required.

- School adequacy – Ms. Baker provided charts within her staff report delineating the number of students for each school district affected by proposal #3 using current pupil generation rates. Currently, looking strictly at the enrollment base compared to the State rated capacity, all schools are adequate. This is a very rudimentary analysis and does not include an analysis of previous development in the area or developments in the pipeline within these school districts. If these developments are also considered, most of the schools would be close to capacity.

In conclusion, staff did not provide a cumulative recommendation; however, recommendations were made on each individual point received from the Circuit Court. Given all the facts provided and testimony given, the Planning Commission must determine if this was a major or minor change to the development plan.

The Planning Commission members agreed that they need additional time to consider these points and that the discussion should be continued at the September meeting.

**Motion:** Ms. Shank made a motion to adjourn the public hearing at 8:30 p.m. The motion was seconded by Mr. Miller and so ordered by the Chairman.

The Chairman re-convened the regular meeting at 8:30 p.m.

**Update of Projects Initialized**

Ms. Kinzer provided a written report for land development plan review projects initialized during the month of June including three site plans and three preliminary/final plats.

**ADJOURNMENT**

Mr. Goetz made a motion to adjourn the meeting at 8:35 p.m. The motion was seconded by Commissioner Wagner and so ordered by the Chairman.

**UPCOMING MEETINGS**

1. September 8, 2025, 6:00 p.m. – Washington County Planning Commission regular meeting

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David Kline", is written over a horizontal line.

David Kline, Chairman