



AGENDA

May 22, 2023
7:00 p.m.

PLANNING COMMISSION MEETING

Location: In person & via Zoom

Join Zoom Link: <https://us02web.zoom.us/j/81882215835>

Meeting ID: 818 8221 5835

Passcode: 21727

1. CALL TO ORDER
2. OPENING
3. REVIEW AND APPROVAL OF MINUTES

A. Meeting of April 24, 2023

4. PUBLIC COMMENT
5. OLD BUSINESS

POSTPONED { A. Economic Development Flex District – WORKSHOP CONTINUED FROM APRIL 24.

Continue to discuss proposed text amendment intended to create a new section in the Town Code titled §17.26: EDFD Economic Development Flex District.

B. For Review: Comprehensive Plan

Continue to discuss the elements of the [2015 Comprehensive Plan](#).

6. NEW BUSINESS
7. ADJOURNMENT

Town of Emmitsburg Planning Commission Minutes

April 24, 2023, 7:00pm

Present: Mark Long (Chair), Dan Garnitz (Secretary), Joe Ritz (Commissioner Liaison), Valerie Turnquist

Absent: Kevin Hagan (Vice-Chair)

Staff Present: Najila Ahsan (Town Planner), Christopher Jakubiak (Town Planning Consultant), Leslie Powell (Town Attorney), Jessica Housaman (Office Coordinator)

Call to Order

- a. Planner Ahsan announced that recording is in progress.

Note: The first 11 minutes of the meeting was recorded on the Town Planner's cellular device as Zoom's recording feature was malfunctioning.

- b. Chair Long called the meeting to order at 7pm and announced the technical difficulties with broadcasting
- c. Chair Long added an additional agenda item, F, under New Business— to discuss taking of the minutes of the Planning Commission meeting.

2. Review and Approval of Minutes for March 27, 2023

- a. Motion to approve minutes by Commissioner Ritz
- b. Second by Valerie Turnquist
- c. Changes: none
- d. Approved: The minutes were approved unanimously.

3. **Public Comment:** None

4. **Old Business:** None

5. **New Business:**

a. Approval of Addition Plat: Town of Emmitsburg's Addition to Lot 1: Swomley Division

- i. Ms. Ahsan stated that the applicant Richard and Paula Lindsey are seeking the approval of the Addition Plat that involves adding Parcel A to Lot 1 of Swomley Division situated on Creamery Rd. She provided a summary of

the background, including the Town Board's decision to sell an approximately three-acre property near the Town's Wastewater Treatment Plant and adjacent to the Lindsays' property for \$18,000. She stated that the approval can only be conditional as the applicants have yet to provide the Town Attorney with the metes and bounds description (a necessary item for preparing the deed) and proceed with all the steps associated with purchase of the property. The applicant will also be responsible for the costs associated with recording of the addition plat and deed.

- ii. Both Commissioner Ritz and Applicant Richard Lindsay stated their understanding that the Town of would be responsible for costs associated with the sale of the property, excluding surveying costs. Ms. Powell clarified that in the motion taken by the Board of Commissioners on December 6, 2022, accepted the offer of \$18,000 and assume the cost of in-house subdivision only. While there was a discussion about de-annexation and other costs associated with the purchase, these were not stated in the motion. Ms. Powell strongly recommended that the applicant contact the Board of Commissioners in writing to seek clarification in terms of the allocation of the costs.
- iii. Commissioner Turnquist motioned to approve the Town of Emmitsburg's Addition of Parcel A to Lot 1 of Swomley Division with the following conditions:
 1. Provide the Town and The Town Counsel with the metes and bounds description to be included in the deed
 2. Proceed with the closing process and payment at the agreed upon price
- iv. Commissioner Garnitz seconded the motion
- v. Commissioner Ritz abstained
- vi. Motion carried

AYE: 3

NAY: 0

ABSTAIN: 1

b. Approval of the Site Plan of Lot 5 for Silo Hill Plaza (fka. Village Liquors & Plaza Inn)

- i. Ms. Ahsan stated that the applicant is seeking approval of the Site Plan of Lot 5 for Silo Hill Plaza located on Silo Hill Parkway. She suggested that the plans be approved with the conditions listed in the staff memo dated April 6, 2023.
- ii. Commissioner Ritz motioned to approve the Site Plan of Lot 5 for Silo Hill Plaza with the following conditions:
 1. Address comments regarding the site plan, landscape plan, and lighting plan by Town Engineer. See memorandum dated April 17, 2023.
 2. Since the land disturbance is over 5,000 sq. ft., the applicant must obtain approval of an Erosion and Sediment Control Plan from the Catoctin/Frederick Soil Conservation District and provide the Town a copy of the approval in accordance with Town Code Chapter 15.20.
 3. Since the land disturbance is over 5,000 sq. ft., the applicant must obtain approval of a Stormwater Management Plan from Frederick County and provide the Town a copy of the approval in accordance with Town Code Chapter 15.21.
 4. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
- iii. Commissioner Garnitz seconded the motion
- iv. Motion carried

AYE: 4

NAY: 0

ABSTAIN: 0

c. Approval of the Improvement Plat of Lot 5 for Silo Hill Plaza (fka. Village Liquors & Plaza Inn)

- i. Ms. Ahsan stated that the applicant is seeking approval of the Site Plan of Lot 5 for Silo Hill Plaza located on Silo Hill Parkway. She suggested that the plans be approved with the conditions listed in the staff memo dated April 6, 2023.
- ii. Commissioner Ritz motioned to approve the Site Plan of Lot 5 for Silo Hill Plaza with the following conditions:
 - 1. Address comments regarding the improvement plat by Town Engineer. See memorandum dated April 17, 2023.
 - 2. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
 - 3. Refer to the memorandum from Town of Emmitsburg regarding the Site Plan dated April 6, 2023, for further information.
- iii. Commissioner Turnquist seconded the motion. She asked for clarification regarding condition #3, which instructs the applicant to refer to the staff memo dated April 6, 2023 regarding the Site Plan.
- i. Motion carried

AYE: 4

NAY: 0

ABSTAIN: 0

d. Discussion: Economic Development Flex District

- i. Mr. Jakubiak stated that the applicant is proposing a text amendment which would create a new section in the Town Code titled §17.26: EDFD Economic Development Flex District and provided some background on how floating zones work. He explained that this type of zone “floats above the town” before it is adopted through a master plan (a plan that would guide

how the land would be developed and establish design standards such as buffer, open space, setbacks etc.) and formal approval process. Other points he made regarding the draft amendment made include:

1. Floating zones provide flexibility and discretion in terms of land use
 2. Instead of “50 acres or more” land area requirements, it should be dropped down to “25 acres or more” to keep the floating zone flexible and include more areas
 3. It would be beneficial to refine the categories of zoning districts
- ii. Commissioner Ritz liked the clarity of the zoning map which had been updated to provide better contrast among zoning districts.
 - iii. Mr. Jakubiak provided some context for the Floor Area Ratio using the examples of McDonald’s, Jubilee, and Emmitsburg Glass
 - iv. Mr. Jakubiak mentioned the capacity for growth with respect to water and sewer services
 - v. Both Commissioner Ritz and Commissioner Long inquired about land use for residential units in the flex zone.
 - vi. The applicant, Bruce Dean, stated that the text amendment has been drafted purposefully to allow the Town’s Board of Commissioners and Planning Commission more say in how the land is used in Town and allow future property owners to develop their property that they otherwise would not be able to.
 - vii. Mr. Dean stated that the purpose of the proposed amendment is to bring novelty to the zoning practices in Emmitsburg
 - viii. Mr. Dean stated that the proposed text amendment would apply to multiple parcels within a site of 50 acres or more.
 - ix. Mr. Dean stated that the proposed amendment incorporates a broad spectrum for Floor Area Ratio (FAR) and requires an applicant to demonstrate that their chosen FAR is appropriate for their site.
 - x. Mr. Dean stated that putting residential units in the floating zone was not part of their vision, but it is not something they would be opposed to.

- xi. Mr. Dean stated that the intention of this text amendment is to promote economic development focused on bringing employment and tax revenue rather than creating a mixed-use zone with housing.
- xii. Mr. Jakubiak mentioned that the floating zone is a good approach for the Town of Emmitsburg to take.
- xiii. Public Comment: Diane Walbrecker expressed the importance of residential units and their role in walkability in a neighborhood.

Five Minute Recess at 8:26pm

e. Discussion: Comprehensive Plan

- i. Mr. Jakubiak presented the new Zoning Map
- ii. Mr. Jakubiak presented the Municipal Growth Area Map. The growth area will be evaluated during the cycle of the comprehensive plan.
- iii. Mr. Jakubiak discussed buffers along streams
- iv. Mr. Jakubiak discussed the Land Use Map which will be the basis of the new Zoning Map and result from the process of comprehensive rezoning.
- v. Mr. Jakubiak discussed the job of updating the website to create a landing page for the Comprehensive Plan.
- vi. Public Comment: Diane Walbrecker addressed the role of comprehensive plan in community recovery after a potential disaster. She also talked about ways to get the community involved in the comprehensive plan process.

f. Discussion: Planning Commission Meeting Minutes

- i. Commissioner Long, after engaging the entire group in the decision, delegated the task of writing Planning Commission minute to the Town Planner.

6. Next Meeting Date: Monday, May 22, 2023

7. Adjournment

- a. Chair Long adjourned the meeting at 9:21pm.

17.26 EDFD ECONOMIC DEVELOPMENT FLEX DISTRICT (FLOATING ZONE)

17.26.010 Purpose and Intent: This zone is intended to create opportunities for master planned commercial, retail, industrial, service and other business and activities, to generate employment and economic development in settings that most optimally foster economic development for the benefit of the Emmitsburg community. The following specific purposes are to be achieved:

1. To allow flexibility in the combination of land use types and in dimensional and other requirements of site design to foster economic development of Emmitsburg including the provision of well-paying industrial and office employment.
2. To allow flexibility for more creative land development design than is generally possible under the Town's separate B-2, ORI, and IP zoning districts.
3. To encourage the optimal planning and use of open spaces including connecting open spaces to other existing and planned open areas, maintaining forested buffers along highways and between incompatible uses, enhancing the aesthetic values of the community generally, incorporating natural resources, open spaces, scenic vistas, and trails into community design, and providing open spaces for employees, visitors, and customers.
4. To encourage variety in the design of physical development patterns so a development is responsive to the unique natural conditions of a site and encourage innovations in the development of land for environmentally sustainable patterns of development and protection of environmentally sensitive areas including forests, wetlands, and stream buffers.
5. To promote the harmonious arrangement of buildings and a mix of compatible land uses that can conveniently serve the needs of the employees within the development creating pleasant walkable and bikeable employment areas.
6. To implement the Emmitsburg Comprehensive Plan and to promote harmonious and unified town development patterns that are consistent with the Plan.
7. The intent of these regulations is also to promote orderly and thorough development plan review procedures.

The EDFD District is a floating zone and is restricted to sites of 50 acres or greater in the B-1, B-2, ORI, I-P and C-R Districts. Approval of a "Master Plan" in accordance with the provisions contained in Section 17.25.060 is required at the time of rezoning approval, and is a prerequisite to continuing through the development process including site plan approval and final subdivision approval.

17.26.020 Floating Zone Approval

- A. The applicant will present sufficient information to provide the Board of Commissioners and the Planning Commission with a basis to review and approve the overall concept of

the project and to amend the zoning map and set a maximum permitted land use density for the EDFD

- B. The following shall be included in the application.
1. A Master Plan that complies with Section 17.26.060(E).
 2. A requested land use density and justification for the total project.
 3. A statement addressing each consideration listed under paragraph C of this Section.
 4. The Application fee of \$2,000.00 and reimbursement to the Town of any engineering, legal or consulting fees associated with the review and processing of the Application.
- C. The Board of Commissioners and the Planning Commission in their respective reviews of the Application for the floating zone will consider all of the following criteria to determine whether an amendment to the zoning map allowing the establishment of a EDFD should be approved or disapproved:
1. The relationship of any development with the Emmitsburg Comprehensive Plan, zoning regulations, and other established development policy guidelines;
 2. Consistency with the statements of purpose set forth in **17.26.010**;
 3. The general location of the site and its relationship and compatibility with existing land use in immediate vicinity;
 4. The long-term implications the EDFD would have on subsequent local development patterns and the demand and availability for public facilities and services in the surrounding area;
 5. The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity;
 6. The EDFD's proposed phasing schedule and how it relates to the provision of public services and facilities necessary to serve the EDFD;
 7. The availability and suitability of vehicular access;
 8. The availability and capacity of municipal water and sewer facilities to serve the full development proposed on the Master Plan, including a point of discharge and water appropriation
- D. The Planning Commission shall review the proposed zoning map amendment at a public hearing shall then make a recommendation to the Board of Commissioners as to approval

or disapproval of the EDFD application. A recommendation for approval will be accompanied by a recommendation for a land use density for the project.

- E. The Board of Commissioners shall then determine whether the requested zoning map amendment should be approved or denied at a public hearing., If approved, a maximum land use density shall be specified. The Board of Commissioners shall make specific findings in support of its determination of whether to approve or disapprove the Application.

17.26.030 Principal Permitted Uses:

- A. A building or land in the EDFD shall be used only for the following purposes:
 - 1. Any use permitted in the general commercial (B-2) district.
 - 2. Any use permitted in the office, research, industrial (ORI) district.
 - 3. Any use permitted in the industrial park (I-P) district.

17.26.040 Accessory Uses and Structures.

Any use normally and customarily incidental to any use permitted as a matter of right in the EDFD is permitted as an accessory use on all properties in the EDFD.

17.26.050 Special Exception Uses: There are no special exceptions in the EDFD.

17.26.060 Master Plan Approval. The Board of Commissioners and the Planning Commission's shall review the Master Plan along with the rezoning application.

- A. In general: Applications for development in the EDFD shall require approval of a Master Plan by the Board of Commissioners. The Master Plan shall meet the following standards in addition to all other applicable requirements of this Ordinance which do not conflict with the standards contained in this section. In cases where other standards within this title may be found to conflict with the standards contained in this section, only the standards contained in this section shall apply.

- E. Application Requirements. The following shall be included in the application:
 - 1. A map of the subject land of the Master Plan at a readable scale showing the existing zoning.
 - 2. A vicinity map at a scale of one inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within one mile of the applicant's property.
 - 3. A topographic map of the property, at a minimum of twenty-foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.

4. A generalized overall land use plan showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.
5. A phasing schedule describing the timing and sequence of development.
6. A forest stand delineation. Subsequent approvals of site plans or final plats for sections of the Master Plan shall be accompanied by a forest conservation plan.
7. The approximate boundaries of any areas proposed for dedication of parks or open space.
8. General details of the proposed street network including any Comprehensive Plan streets.
9. General location of pedestrian walkways and recreation paths including the relationship of pedestrian connectivity with common areas and commercial development.
10. General written and graphic details of the streetscape.
11. General written and graphic details relative to lot and block design.

B. Master Plan Design Standards:

1. Subject to the standards contained herein and the zoning ordinances as applicable, any property applying for development approval in the EDFD shall be master planned. Building setbacks, lot sizes, building size, landscaping, buffer yard, lighting, pedestrian circulation, and architecture shall be determined by the Board of Commissioners. In determining these requirements, the Board of Commissioners shall consider such factors as the proposed intensity of the development, use mix, design and compatibility with existing or anticipated development on surrounding lands, and the distance, spacing, and buffering, and screening which may be required between different land uses within the EDFD. The purpose of this standard is to provide design flexibility, consistent with public health and safety, to the developer who develops property and constructs buildings in accordance with a unified and coherent plan of development.
2. Notwithstanding the preceding, maximum building height shall not exceed 45' unless otherwise approved by the Board of Commissioners.
3. Maximum floor area ratio: Maximum floor area ratio in the EDFD is 0.40. The Board of Commissioners may permit a lower floor area ratio in the Master Plan if it finds that the maximum permitted floor area ratio would result in development that would not be compatible with anticipated development in the surrounding area or would create an unacceptable adverse environmental impact on or adjacent to the site. However, in no instance shall the Board of Commissioners require a lower floor area ratio than 0.1.

- C. Outdoor Storage: Outside storage of equipment, material or products will be permitted only as an accessory use to a principle permitted use, provided all materials are stored in an area completely enclosed and screened from view of the general public. No outdoor

stockpiling is permitted in any front yard.

- D. Traffic Circulation and Pedestrian Linkages: On-site and off-site streets, traffic circulation patterns, and pedestrian linkages shall be adequate to accommodate the demands generated by the proposed development. Access points shall be pedestrian friendly. Pedestrian linkages shall connect various uses with each other. Where the Board of Commissioners deems appropriate, streets and pedestrian linkages shall be designed to link with those of adjacent existing or future developments.
- E. Development Phasing: A unified development shall be master planned as integrated project with well-designed and coordinated transitions between various land uses and adjacent existing land uses. A phasing plan for various components of the development shall be approved by the Board of Commissioners as a component of Master Plan approval.
- F. Sign Standards: Sign standards for nonresidential development in the EDFD shall be established for each development by the Planning Commission at time of Site Plan.
- G. Parking and Loading Standards: Off-street parking and off-street loading standards for development in the EDFD are contained in Section 17.08.140 of this Ordinance unless otherwise modified by the Board of Commissioners.
- H. The Master Plan shall expire three years from the date of approval if a Site Plan or Subdivision Plat Approval has not been obtained for all or a portion of the project. The Board of Commissioners shall have the right to grant reasonable extensions of the Master Plan approval. Any Master Plan which is materially amended shall remain valid for three years.
- I. A Master Plan may be amended. The same process used in approving a master plan shall be applied to an amendment including any fees associated therewith.
- J. Minor amendments.
 - 1. A property owner subject to an approved Master Plan may request an amendment to the terms and conditions of the approved Master Plan. Any request for an amendment shall be in writing.
 - 2. In each case, if the Zoning Administrator determines that the proposed amendment (1) does not involve a material change; (2) otherwise complies with the terms of this chapter, and (3) is in the interest of promoting health, safety, and welfare of the community, he/she shall approve the request. Any other amendment shall be subject to review by the Board of Commissioners according to the Master Plan approval procedures set forth herein.
 - a. Material changes shall include the following:
 - i. Proposed increase in FAR, except that occasioned by paragraph ii. below.

- ii. Proposed increase of non-residential floor area (less than 5% increase above existing total approved for the building in question, as specified in the approved Master Plan, may be considered non-material).
 - iii. Changes of use that are determined to be more intense.
 - iv. Elimination of an approved project amenity or open space.
 - v. Any proposed change which alters a condition of the Master Plan approval.
 - vi. Substitution of an amenity with a non-comparable amenity.
 - vii. Other changes of a similar scope or magnitude.
 - viii. Substitution of a commercial use for another commercial use.
 - ix. Proposed change in architectural style or type from that which was indicated on approved plans, subject to Planning & Zoning Commission approval of said change (unless the Master Plan approval specifies a condition(s) concerning such architectural style or feature, in which case such a revision would constitute a non-material change).
- b. Non-material changes may include the following:
- i. Minor relocation of commercial buildings provided there are no environmental, traffic, etc., impacts because of such action.
 - ii. Relocation of site infrastructure (e.g., utilities, stormwater management) provided said relocation creates no adverse impact or removes a site amenity.
 - iii. Addition or expansion of a park, open space, or recreational amenity.
 - iv. Substitution of one project amenity with a comparable amenity.
 - v. Other changes of a similar scope or magnitude.
- c. Even if the Zoning Administrator may determine that a proposed amendment is a non-material change, he/she shall retain the right to have said amendment reviewed and approved/denied by the Planning and Zoning Commission.

17.26.070 Site Plan Required

Site plan approval by the Emmitsburg Planning Commission is required for all uses in the EDFD, and every Master Plan shall contain a note requiring that a site plan enforcement agreement, requiring the property owner to execute and maintain all the features of the approved site plan, shall be executed prior to issuance of a building permit. The site plan enforcement agreement shall be signed by the property owner and the Mayor, on behalf of the Town, and the agreement shall also be binding upon the successors and assigns.

MEMORANDUM

To: Town of Emmitsburg Planning & Zoning Commission
From: Christopher Jakubiak , AICP, Consulting Town Planner
Date: May 18, 2023
Re: Draft of Floating Zone Text Amendment for Planning Commission Review:

Please find below the draft of the Floating Zone ordinance introduced at the April 27, 2023 Planning Commission meeting with my suggested changes for Planning Commission discussion. Ultimately, if the Planning Commission wishes to proceed, this document could be processed as a text amendment to the Zoning Ordinance.

Key to suggested changes:
New text is shown in **ALL CAPS AND IN RED FONT**
Proposed removed text is shown in ~~strikethrough~~.

17.26 ~~EDFD~~ ECONOMIC DEVELOPMENT FLEX DISTRICT (**EDFD**), FLOATING ZONE

17.26.010 Purpose and Intent: This zone is intended to create opportunities for master planned developments **THAT CONTRIBUTE TO THE ECONOMIC DEVELOPMENT OF THE EMMITSBURG community IN SETTINGS WHERE THE IMPACTS OF SUCH DEVELOPMENT TO SURROUNDING PROPERTIES AND INFRASTRUCTURE CAN BE MINIMIZED OR OPTIMALLY MANAGED.** ~~commercial, retail, industrial, service and other business and activities, to generate employment and economic development in settings that most optimally foster economic development for the benefit of the Emmitsburg community.~~ The following specific purposes are to be achieved:

1. To allow flexibility in the combination of land use types and in dimensional and other requirements of site design to **RESPOND TO CHANGING ECONOMIC CONDITIONS AND DEVELOPMENT TRENDS THAT MAY OCCUR BETWEEN THE TOWN'S COMPREHENSIVE PLAN UPDATES IN ORDER TO** foster economic development of Emmitsburg **MOST NOTABLY including** the provision of well-paying industrial and office employment.
2. **TO PROVIDE A MEANS FOR ALLOWING THE DEVELOPMENT OF LANDS ZONED FOR COMMUNITY – RECREATIONAL (CR) THAT ARE EXPRESSLY RECOMMEND IN THE COMPREHENSIVE PLAN FOR CONSERVATION UNTIL SUCH TIME AS THE TOWN DETERMINES ADEQUATE INFRASTRUCTURE AND UTILITIES ARE AVAILABLE.**
3. To allow flexibility for more creative **AND COMPACT** land development design than is generally possible under the Town's separate B-2, ORI, and IP zoning districts.

4. To encourage the optimal planning and use of open spaces including connecting open spaces to other existing and planned open areas, maintaining **OR ESTABLISHING** forested buffers along highways and between incompatible uses, enhancing the aesthetic values of the community generally, incorporating natural resources, open spaces, scenic vistas, and trails into community design, and providing open spaces for employees, visitors, and customers.
5. To encourage ~~variety in~~ the design of ~~physical development patterns so a~~ development **S AND BUILDINGS THAT ARE** ~~is~~ **OPTIMALLY** responsive to the unique natural conditions of a site ~~and SO AS TO PROMOTE encourage innovations in the development of land for~~ **MAXIMUM ENERGY EFFICIENCY AND** environmentally ~~sustainable~~ **SUSTAINABILITY** ~~patterns of development and protection~~ **TO PROTECT** ~~of~~ environmentally sensitive areas including forests, wetlands, and stream buffers.
6. To promote the harmonious arrangement of buildings and a mix of compatible land uses that can conveniently serve the needs of the employees within the development creating pleasant walkable and bikeable employment areas.
7. To implement the Emmitsburg Comprehensive Plan and to promote harmonious and unified town development patterns that are consistent with the **COMPREHENSIVE** Plan.
8. **TO PROMOTE COMPACT DEVELOPMENT PATTERNS THAT ALLOW FOR EFFICIENT AND COST EFFECTIVE PROVISION AND MAINTENANCE OF PUBLIC FACILITIES AND INFRASTRUCTURE.**
9. The intent of these regulations is also to promote orderly and thorough ~~development~~ plan review procedures **FOR DEVELOPMENT IN THE EDFD DISTRICT.**

17.26.0XX APPICABILITY

The EDFD District is a floating zone and is restricted to sites of ~~50~~ **25** acres or greater in the ~~B-1~~, B-2, ORI, I-P and C-R Districts. Approval of a "Master Plan" in accordance with the provisions contained in Section 17.25.060 is required at the time of rezoning approval, and is a prerequisite to continuing through the development process including site plan approval and final subdivision approval.

17.26.020 Floating Zone Approval

- A. The applicant ~~will~~ **MUST** present sufficient information to provide the Board of Commissioners and the Planning Commission with a basis to review and approve the overall concept of the project and to amend the zoning map ~~and set a maximum permitted land use density for the EDFD.~~
- B. The following shall be included in the application.
1. A Master Plan that complies with Section 17.26.060(E).
 - ~~2. A requested land use density and justification for the total project.~~
 3. A statement addressing each consideration listed under paragraph C of this Section.
 4. The Application fee of \$2,000.00 and reimbursement to the Town of any engineering, legal or consulting fees associated with the review and processing of the Application.
- C. The Board of Commissioners and the Planning Commission in their respective reviews of the Application for the floating zone ~~will~~ **SHALL** consider all ~~of~~ the following criteria to determine whether an amendment to the zoning map allowing the establishment of a EDFD should be approved or disapproved:
1. The ~~relationship~~ **CONSISTENCY** of any ~~development~~ **PROPOSED EDFD AND MASTER PLAN** with the Emmitsburg Comprehensive Plan, ~~zoning regulations, and other established development policy guidelines;~~
 2. Consistency with the statements of purpose set forth in **17.26.010**.
 3. The general location of the site and ~~it's~~ **THE** relationship and compatibility **OF THE PROPOSED DEVELOPMENT** with existing land use**S** in **THE** immediate vicinity.
 4. The long-term implications the EDFD would have on subsequent local development patterns, ~~and~~ the demand and availability for public facilities and services in the surrounding area, **AND THE ABILITY OF THE TOWN TO PROVIDE PUBLIC SERVICES AND FACILITIES.**
 5. The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity.
 6. The EDFD's proposed phasing schedule and how it relates to the provision of public services and facilities necessary to serve the EDFD.
 7. The availability, ~~and~~ suitability **AND ADEQUACY OF ROADS TO HANDLE THE PROJECTED TRAFFIC RELATED TO THE DEVELOPMENT, AND** of vehicular access.
 8. The availability, ~~and~~ capacity, **AND ADEQUACY** of municipal water and sewer facilities to serve the full development proposed on the Master Plan, including a point of discharge and water appropriation

9. THAT THE FLEXIBILITY PERMITTED BY THESE STANDARDS WAS USED BY THE APPLICANT TO CREATE A DEVELOPMENT OF EXCEPTIONAL CHARACTER.
- D. The Planning Commission shall CONDUCT A THOROUGH review OF the proposed ~~zoning map amendment~~ EDFD AND MASTER PLAN, HOLD ~~at~~ a Public Hearing, DOCUMENT ITS FINDINGS IN WRITING, AND shall then make a recommendation to the Board of Commissioners as to approval or disapproval of the EDFD application AND MASTER PLAN. ~~A recommendation for approval will be accompanied by a recommendation for a land use density for the project.~~
- ~~E. UPON RECEIVING THE PLANNING COMMISSION'S RECOMMENDATION, the Board of Commissioners shall HOLD A PUBLIC HEARING AND then determine whether the requested PROPOSED EDFD AND MASTER PLAN zoning map amendment should be approved or denied at a public hearing. If approved, a maximum land use density shall be specified. The Board of Commissioners shall make specific findings in support of its determination of whether to approve or disapprove the Application.~~
- F. THE DECISION OF THE BOARD OF COMMISSIONERS SHALL BE DISCRETIONARY BUT IF THE BOARD OF COMMISSIONERS DECIDES TO APPROVE, IT MUST HAVE FIRST ESTABLISHED WRITTEN FINDINGS DEMONSTRATING THE APPLICANT HAS MET EACH OF THE CRITERIA IN SUBSECTION "C" ABOVE.
- G. THE APPLICANT SHALL RECORD THE APPROVED MASTER PLAN, WHICH ACCOMPANIED THE ZONING CHANGE, IN THE LAND RECORDS OF FREDERICK COUNTY WITHIN 90 DAYS OF FINAL APPROVAL, WHICH SHALL BE A PRECONDITION OF FILING ANY SITE PLAN OR SUBDIVISION PLAT FOR DEVELOPMENT PERMIT APPROVAL IN THE EDFD FLOATING ZONE.

17.26.030 Principal Permitted Uses:

- A. ~~A building or land in the EDFD shall be used only for the following purposes:~~ EXCEPT AS PROVIDED FOR IN SUBSECTION "D" BELOW, THE USES PERMITTED IN AN EDFD FLOATING ZONE SHALL BE AS FOLLOWS:
1. Any use permitted in the general commercial (B-2) district.
 2. Any use permitted in the office, research, industrial (ORI) district.
 3. Any use permitted in the industrial park (I-P) district.
 4. ANY USE PERMITTED IN THE CONSERVATION-RECREATION (C-R) DISTRICT.
 5. ANY USE PERMITTED IN THE INSTITUTIONAL (I) DISTRICT.
 6. DAY CARE CENTERS, CHILDREN NURSERY, PREKINDERGARTEN, AND OTHER PRIVATE SCHOOLS
- B. NO USE WHICH IS EXPRESSLY PROHIBITED IN THE B-2, ORI, OR I-P DISTRICTS SHALL BE PERMITTED IN AN EDFD FLOATING ZONE.
- C. ALL USES SUBJECT TO THE PERFORMANCE STANDARDS OR OTHERWISE QUALIFIED IN THE ORI AND I-P DISTRICT SHALL BE SUBJECT TO THE SAME STANDARDS AND QUALIFICATIONS IN AN EDFD FLOATING ZONE.
- D. WHERE THE UNDERLYING ZONING DISTRICT IS EITHER ORI OR IP, THE USES

PERMITTED IN THE EDFD FLOATING ZONE SHALL ONLY BE THOSE USES PERMITTED IN THE UNDERLYING ZONE.

- E. NO MASTER PLAN SHALL BE APPROVED WHICH DOES NOT DEVOTE AT LEAST 50 PERCENT OF ITS FLOOR AREA TO THE OFFICE, RESEARCH, AND LIMITED MANUFACTURING AND LIGHT INDUSTRIAL USES, THAT ARE PERMITTED IN THE ORI AND I-P DISTRICTS.

17.26.040 Accessory Uses and Structures.

Any use normally and customarily incidental to any use permitted as a matter of right in the EDFD is permitted as an accessory use on all properties in the EDFD.

17.26.050 Special Exception Uses: There are no special exceptions in the EDFD.

17.26.060 Master Plan Approval. The Board of Commissioners and the Planning Commission's shall review the Master Plan along with the rezoning application.

- A. ~~In general:~~ Applications for development in the EDFD shall require approval of a Master Plan by the Board of Commissioners. The Master Plan shall meet the following standards in addition to all other applicable requirements of this Ordinance which do not conflict with the standards contained in this section. In cases where other standards within this title may be found to conflict with the standards contained in this section, only the standards contained in this section shall apply.
- H. Application Requirements. The following shall be included in the application:
1. A map of the subject land of the Master Plan at a readable scale showing the existing zoning.
 2. A vicinity map at a scale of one inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within one mile of the applicant's property.
 3. A topographic map of the property, at a minimum of twenty-foot contour intervals, ~~UNLESS OTHERWISE specified~~ **REQUIRED BY THE ZONING ADMINISTRATOR**, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.
 4. A ~~generalized overall~~ land use plan showing the type, location, acreage, and density of all proposed land uses as well as the general street layout and circulation pattern.
 5. A phasing schedule describing the timing and sequence of development.
 6. A forest stand delineation. Subsequent approvals of site plans or final plats for sections of the Master Plan shall be accompanied by a forest conservation plan.
 7. The approximate boundaries of any areas proposed for dedication of parks or open space.
 8. General details of the proposed street network including any Comprehensive Plan streets.
 9. General location of pedestrian walkways and recreation paths including the relationship of pedestrian connectivity with common areas and commercial development.

10. General written and graphic details of the streetscape.
11. General written and graphic details relative to lot and block design.
12. **COMPARISON OF THE DIMENSIONAL REQUIREMENTS APPLICABLE TO THE UNDERLYING ZONING DISTRICT TO THOSE PROPOSED AS PART OF THE MASTER PLAN.**

B. Master Plan Design Standards:

1. Subject to the standards contained herein and the zoning ordinances as applicable, any property applying for development approval in the EDFD shall be master planned. Building setbacks, lot sizes, building size, landscaping, buffer yard, lighting, pedestrian circulation, and architecture shall be determined by the Board of Commissioners. In determining these requirements, the Board of Commissioners shall consider such factors as the proposed intensity of the development, use mix, design and compatibility with existing or anticipated development on surrounding lands, and the distance, spacing, and buffering, and screening which may be required between different land uses within the EDFD. ~~The purpose of this standard is to provide design flexibility, consistent with public health and safety, to the developer who develops property and constructs buildings in accordance with a unified and coherent plan of development.~~
2. A MASTER PLAN MUST PROMINELY FEATURE OFFICE AND INDUSTRIAL USES WITH RETAIL AND RETAIL SERVICE TYPE USES SHALL BE
3. Notwithstanding the preceding, maximum building height shall not exceed 45' ~~unless otherwise approved by the Board of Commissioners.~~
4. ~~Maximum floor area ratio: Maximum floor area ratio in the EDFD is 0.40. The Board of Commissioners may permit a lower floor area ratio in the Master Plan if it finds that the maximum permitted floor area ratio would result in development that would not be compatible with anticipated development in the surrounding area or would create an unacceptable adverse environmental impact on or adjacent to the site. However, in no instance shall the Board of Commissioners require a lower floor area ratio than 0.1.~~

C. Outdoor Storage: Outside storage of equipment, material or products will be permitted only as an accessory use to a principle permitted use, provided all materials are stored in an area completely enclosed and screened from view of the general public. No outdoor stockpiling is permitted in any front yard.

D. Traffic Circulation and Pedestrian Linkages: On-site and off-site streets, traffic circulation patterns, and pedestrian linkages shall be adequate to accommodate the demands generated by the proposed development. Access points shall be pedestrian friendly. Pedestrian linkages shall connect various uses with each other. Where the Board of Commissioners deems appropriate, streets and pedestrian linkages shall be designed to link with those of adjacent existing or future developments.

E. Development Phasing: A **unified** development shall be master planned as integrated project with

well-designed and coordinated transitions between various land uses and adjacent existing land uses. A phasing plan for various components of the development shall be approved by the Board of Commissioners as a component of Master Plan approval.

~~F. Sign Standards: Sign standards for nonresidential development in the EDFD shall be established for each development by the Planning Commission at time of Site Plan.~~

G. Parking and Loading Standards: **THE MASTER PLAN SHALL FAVOR PARKING ARRANGEMENTS THAT DISTRIBUTE PARKING LOTS THROUGHOUT THE MASTER PLANNED DEVELOPMENT AND THAT CAN BE SHARED BY MULTIPLE LAND USES OVER THE CONVENTIONAL ARRANGEMENTS THAT RESULT FROM APPLYING THE ON-SITE PARKING REQUIREMENTS OF this Ordinance** ~~off-street parking and off-street loading standards for development in the EDFD are contained in~~ Section 17.08.140 of this Ordinance ~~unless otherwise modified by the Board of Commissioners.~~

H. The Master Plan shall expire three years from the date of approval if a Site Plan or Subdivision Plat Approval has not been obtained for all or a portion of the project **AND THE FINAL APPROVED MASTER PLAN SHALL CONTAIN A NOTE, PROMINENTLY STATED, ACKNOWLEDGING THIS CONDITION.** The Board of Commissioners shall have the right to grant reasonable extensions of the Master Plan approval. Any Master Plan which is materially amended shall remain valid for three years.

I. A Master Plan may be amended. The same process used in approving a **Master Plan** shall be applied to an amendment including any fees associated therewith, **EXCEPT FOR AMENDMENTS FOUND BY THE ZONING ADMINISTRATOR TO BE MINOR.**

J. Minor **A**mendments.

1. A property owner subject to an approved Master Plan may request an amendment to the terms and conditions of the approved Master Plan. Any request for an amendment shall be in writing.

2. In each case, if the Zoning Administrator determines that the proposed amendment (1) does not involve a material change; (2) otherwise complies with the terms of this chapter, and (3) is in the interest of promoting health, safety, and welfare of the community, he/she shall **DEEM SUCH REQUEST AS A PROPOSAL FOR A MINOR AMMENDMENT AND MAY** approve the request. ~~Any other amendment shall be subject to review by the Board of Commissioners according to the Master Plan approval procedures set forth herein.~~

a. Material changes shall include the following:

- i. Proposed increase in FAR, except that occasioned by paragraph ii. below.
- ii. Proposed increase of non-residential floor area **GREATER THAN 5%** ~~(less than 5% increase above existing total approved for the building in question, as specified in the approved Master Plan, may be considered non-material).~~
- iii. Changes of use that are determined to be more intense.
- iv. Elimination of an approved project amenity or open space.
- v. Any proposed change which alters a condition of the Master Plan approval.
- vi. Substitution of an amenity with a non-comparable amenity.

- vii. Other changes of a similar scope, ~~or~~ magnitude, **OR CHARACTER.**
 - viii. ~~Substitution of a commercial use for another commercial use.~~
 - ix. Proposed change in architectural style or type from that which was indicated on approved plans, subject to Planning & Zoning Commission approval of said change (unless the Master Plan approval specifies a condition(s) concerning such architectural style or feature, in which case such a revision would constitute a non-material change).
- b. Non-material, **OR MINOR**, changes may include the following:
- i. Minor ~~relocation~~ **REPOSITIONING** of commercial buildings **ON THEIR PLANNED SITES, provided there are no environmental, traffic, etc., impacts because of such action.**
 - ii. Relocation of site infrastructure (e.g., utilities, stormwater management) provided said relocation creates no adverse impact or removes a site amenity.
 - iii. Addition or expansion of a park, open space, or recreational amenity.
 - iv. Substitution of one project amenity with a comparable amenity.
 - v. Other changes of a similar scope or magnitude.
- c. Even if the Zoning Administrator may determine that a proposed amendment is a non-material change, he/she shall retain the right to have said amendment reviewed and approved/denied by the Planning and Zoning Commission.
- d. **ANY AMENDMENT SO APPROVED SHALL BE REFLECTED ON THE APPROVED MASTER PLAN AND THE APPLICANT SHALL RECORD SUCH AMENDED PLAN IN THE LAND RECORDS OF FREDERICK COUNTY.**
- ** DEVELOPMENT THAT IS NOT IN ACCORD WITH THE APPROVED MASTER PLAN WILL RESULT IN REVOCATION OF APPROVAL OF THE PLAN.**

17.26.070 Site Plan Required

Site plan approval by the Emmitsburg Planning Commission is required for all uses in the EDFD, and every Master Plan shall contain a note requiring that a site plan enforcement agreement, requiring the property owner to execute and maintain all the features of the approved site plan, shall be executed prior to issuance of a building permit. The site plan enforcement agreement shall be signed by the property owner and the Mayor, on behalf of the Town, and the agreement shall also be binding upon the successors and assigns.