

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR June 27, 2019 @ 7pm

Case Number: **B-19-13 (AP# 19272)**

Appellant: **Double M, LLC**
c/o Miles and Stockbridge
30 W. Patrick Street
Frederick, MD 21701

Appeal: **Claiming an Appeal to the Frederick County Board of Appeals of the January 9, 2019 decision by the Frederick County Planning Commission**

Location: **Buckeystown Pike, Frederick MD, Tax Map 0095, Parcel 88, Tax ID 01-000128, Size: 23.032 Acres**

Planning Region: **Frederick**

Zoning District: **Mineral Mining (MM)/Agricultural (A)**

Comp. Plan Designation: **Mineral Mining /Agricultural-Rural**

Applicable Ordinances: **Sec. 1-19-3.230 APPEALS**

Background:

The Appellants have filed an Appeal to the Frederick County Board of Appeals, of the January 9, 2019 decision by the Frederick County Planning Commission.

The Appellant, Double M, LLC, requested Conditional Site Plan approval for development of a hot-mix, continuous-type asphalt production facility with stockpiling of product, construction of various structures and equipment for the production of hot-mix asphalt, and a 1,200 square foot office building on a 25 acre site (the "Site Plan") from the Frederick County Planning Commission on January 9, 2019.

After presentations by the applicant and discussion by the Frederick County Planning Commission, a Planning Commission member made a motion to approve the Site Plan. The vote ended in a tie (3-3). According to the Rules and Procedures for the Planning Commission, the motion failed on a tie vote. The applicant was then notified on January 11, 2019 that due to the tie, the Site Plan was considered "not approved".

This application was presented to the Board of Appeals at their regularly scheduled meeting on April 25, 2019. At this meeting the Board decided that they wanted to hear a full presentation from Frederick County Planning staff and requested that the parties return at the next Board of Appeals meeting on June 27, 2019 and provide presentations as requested.

§ 1-19-3.230. APPEALS.

(A) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction affected by any decisions of the administrative officer. Such appeal shall be taken within 30 days after the date of the action or decision being appealed, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after notice of appeal shall have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(C) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(D) In exercising the above-mentioned powers such Board may, in conformity with MD. Ann. Code, Art. 66B, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Action Needed:

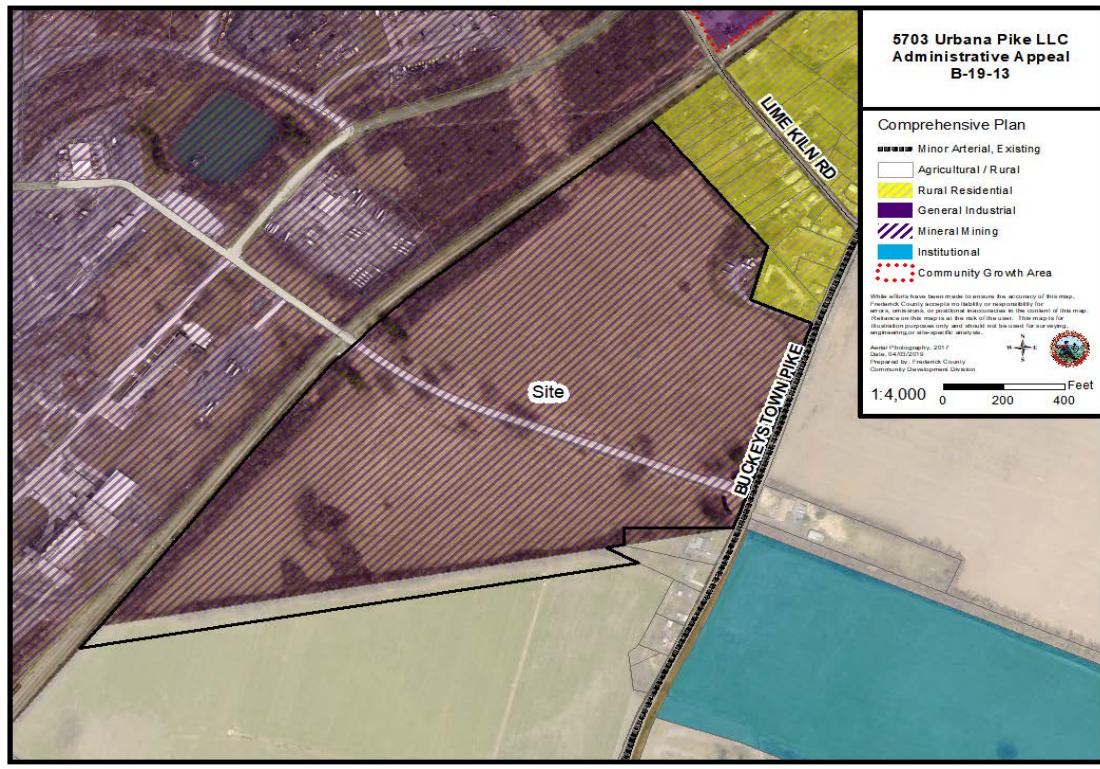
Staff requests that the Board review the request for Appeal as per Sections 1-19-3.230 (Appeals) and render a decision on the Appellant's request.

Submissions:

- (1) *Applicant's Justification Statement and Supporting Material.***
- (2) *Staff Response***

Attachments:

(1) Finding and Decision by FC Planning Commission, Dated January 11, 2019.
Site Maps:



Site Maps:

