



# FREDERICK COUNTY GOVERNMENT

## DIVISION OF PLANNING & PERMITTING

Livable Frederick Planning & Design Office

Jan H. Gardner  
County Executive

Steven C. Horn, Division Director  
Kimberly Golden Brandt, Director

### MEMORANDUM

**TO:** Jan H. Gardner, County Executive <sup>DS</sup> SH

**THROUGH:** Steve Horn, Division Director

**FROM:** Kimberly Golden Brandt, Director, Livable Frederick Planning & Design Office <sup>DS</sup> KGB

**DATE:** January 5, 2022

**SUBJECT:** Comprehensive Rezoning Notification

### ISSUE:

Should the rezoning notification requirements be amended to allow greater flexibility with sign posting in the case of comprehensive rezoning?

### BACKGROUND:

In 2016, with the passage of Bill 16-11, the rezoning public notice requirements were changed to require the County or the property owner, whichever party requested the change, to place a sign on each property. There is no distinction made between individual rezoning applications and comprehensive rezoning. Prior to the passage of Bill 16-11, §1-19-3.110.7. – Special Provisions for Comprehensive Zoning or Rezoning stated, “Posting of property will not be required.”

Adoption of the Livable Frederick Master Plan was not followed with comprehensive rezoning. Rather, development of area and corridor plans will include parcel-level review of land use and zoning designations and may ultimately result in recommend large-scale changes to both. Additionally, these plans may recommend utilization of planning tools like zoning overlays that have the same effect as a rezoning and must be treated as such.

The fiscal estimate for Bill 16-11 stated that the legislation would have a “small fiscal impact,” estimated to be \$350 annually. The report noted that “these expenses will only be incurred should the County be the party requesting the change in zoning.” It appears that comprehensive rezoning to implement an area or corridor plan was not considered. The planning area for an area plan typically contains hundreds of properties, and could contain thousands. A recent batch of 200 signs ordered by the Division cost \$2,400. Additionally, and of greater concern, is the issue of the staff resources needed to post signs on hundreds or potentially thousands of properties, which we are obligated to do.

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As a remedy, it is proposed that the Zoning Ordinance be amended as shown in Attachment 1 to distinguish rezoning requests by a single property owner from comprehensive rezoning initiated by the County, and to allow the County to post signs at appropriate intervals when multiple adjoining properties are the subject of comprehensive rezoning rather than posting a sign on each property. In addition to signs, notification will continue to be provided via mail and newspaper advertisements as is required, and via the County website and social media as is the current practice.

**RECOMMENDATION:**

Staff recommends that the rezoning notification requirements be amended to allow greater flexibility with sign posting in the case of comprehensive rezoning.

**Approve?**    Yes   X                        No           

DocuSigned by:

*Jan Gardner*

1/11/2022

**Jan H. Gardner, County Executive**  
**Frederick County, Maryland**

**Date**

**FINANCIAL IMPACT:** No

**ATTACHMENT(S):**

Attachment 1 – Draft Text Amendment - 1-19-3.110.7

**TEXT AMENDMENT – COMPREHENSIVE ZONING OR REZONING****§ 1-19-3.110.3. REVIEW AND APPROVAL PROCEDURES.**

## (A) Planning Commission.

(1) An application for an individual zoning map amendment or a floating zone reclassification shall be reviewed by the Community Development Division staff which shall prepare a report and recommendation to the Planning Commission. After completion of this staff report the application shall be presented to the Planning Commission for consideration.

(2) Within 90 days after acceptance of the application by the Zoning Administrator, the Planning Commission shall hold a public hearing on the application for individual zoning map amendment or floating zone reclassification. The Planning Commission shall forward its recommendation to the County Council within 62 days of its first public hearing. A failure to make a recommendation within 62 days of the first public hearing shall be deemed as providing no recommendation on the request.

## (B) County Council.

(1) The County Council shall hold a public hearing on the application for an individual zoning map amendment or floating zone reclassification.

(2) Any person shall have the right to submit oral and/or written testimony at the hearing.

(3) An application for individual zoning map amendment or floating zone reclassification shall be deemed denied if the County Council has not approved the application within 90 days of the conclusion of the public hearing.

## (C) Public notice.

(1) Sign(s). The applicant shall place a sign on the property proposed to be reclassified, within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.

(a) The Zoning Administrator shall provide the required sign(s).

(b) The sign(s) shall be placed on the property at least 30 days prior to the public hearing of the Planning Commission or County Council on the zoning map amendment.

(c) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the applicant.

(d) The applicant shall file an affidavit certifying that the sign(s) has been posted and maintained for the required period of time.

(e) If any person removes or tampers with a posted sign(s) during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.

(2) Mail. The Zoning Administrator will make a good faith effort to notify the owners of all properties adjoining a property for which an application for zoning map amendment or floating zone reclassification application has been accepted. Such notice shall be by first class mail at least 14 days

prior to such public hearing and contain the date, time, place and nature of any public hearing to be held concerning the application. **The failure of the property owner to receive the mailing shall not invalidate the approval of the zoning map amendment or floating zone reclassification.**

(a) Adjoining property owners shall include the owners of properties immediately contiguous to the applicant's property as well as those separated by streets, railroads, or other rights-of-way as set forth in § 1-19-3.110.2(C)(5).

(b) Appearance by a property owner at the public hearing shall constitute a waiver of any defect in this notice requirement.

(3) Newspaper. Notice of the time and place of the County Council public hearing, together with a summary of the proposed zoning map amendment or floating zone reclassification shall be published in at least 1 newspaper of general circulation in Frederick County once each week for 2 successive weeks with the first such publication of notice at least 14 days prior to the hearing.

(4) The Zoning Administrator shall have the authority to postpone a public hearing if the applicant has not complied with the requirements for posting of property as detailed in this section.

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#### **§ 1-19-3.110.7. SPECIAL PROVISIONS FOR COMPREHENSIVE ZONING OR REZONING.**

In the case of a comprehensive zoning or rezoning, the following review and approval procedures shall apply.

(A) The Planning Commission shall hold a public hearing and cause notice of the hearing to be published in a newspaper of general circulation in the county in accordance with § 1-19-3.110.3. The Planning Commission shall forward a recommendation to the County Council within 62 days of the first public hearing.

(B) The County Council shall hold a public hearing and cause notice of the hearing to be published in accordance with § 1-19-3.110.3. Any person shall have the right to submit oral and/or written testimony at the hearing.

(C) The following additional public notice requirements shall apply for all properties for which a change in zoning is requested by the property owner ~~[or by the County]~~:

(1) Sign(s). The ~~[County or the]~~ property owner ~~[-depending on which party requested the change,]~~ shall place a sign on each property, within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.

(a) The sign(s) shall be placed on each property at least 30 days prior to the Planning Commission public hearing and at least 30 days prior to the County Council public hearing.

(b) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the ~~[County or the]~~ property owner~~[-depending on which party requested the change].~~

(c) If any person removes or tampers with a posted sign(s) during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.

(2) Mail. The Division of Planning and Permitting will make a good faith effort to notify the owners of all properties adjoining a property subject to rezoning. Such notice shall be sent by first class mail at least 14 days prior to the Planning Commission public hearing and at least 14 prior to the County Council public hearing. The notice shall contain the date, time, place, and nature of the public hearing. **The failure of the property owner to receive the mailing shall not invalidate the approval of the comprehensive zoning or rezoning.**

(a) Adjoining property owners shall include the owners of properties immediately contiguous to the subject property as well as those separated by streets, railroads, or other rights-of-way as set forth in § 1-19-3.110.2(C)(5).

(b) Appearance by a property owner at the public hearing shall constitute a waiver of any defect in this notice requirement.

**(D) The following additional public notice requirements shall apply for all properties for which a change in zoning is requested by the County:**

(1) Sign(s). The County shall place a sign on each property, within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public. However, if multiple, adjoining properties are the subject of a comprehensive rezoning, the County may post such signs at intervals it deems appropriate to be most readily seen by the public.

(a) The sign(s) shall be placed at least 30 days prior to the Planning Commission public hearing and at least 30 days prior to the County Council public hearing.

(b) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the County.

(c) If any person removes or tampers with a posted sign(s) during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.

**(2) Mail. The Division of Planning and Permitting will make a good faith effort to notify the owners of all properties subject to rezoning and owners adjoining a property subject to rezoning. Such notice shall be sent by first class mail at least 14 days prior to the Planning Commission public hearing and at least 14 days prior to the County Council public hearing. The notice shall contain the date, time, place, and nature of the public hearing. The failure of the property owner to receive the mailing shall not invalidate the approval of the comprehensive zoning or rezoning.**

**(a) Adjoining property owners shall include the owners of properties immediately contiguous to the subject property as well as those separated by streets, railroads, or other rights-of-way as set forth in § 1-19-3.110.2(C)(5).**

**(b) Appearance by a property owner at the public hearing shall constitute a waiver of any defect in this notice requirement.**