

## Council Activity Report for the Month of November 2021

- November Council Meeting was held on Monday, November 1st . Meeting began at 6:20 pm due to 3 hearings preceding the normal meeting.
- There were three public hearings for the following ordinances, and votes were taken on them during the regular meeting.
  - **Charter Amendment 2021-3 Duties of the Town Administrator and Town Staff**
    - Both Mayoral Candidates spoke out in favor of delaying the vote and for further discussion on the amendment.
    - Council decided to delay the discussion and vote on this ordinance.
  - **Charter Amendment 2021-2- Finance, Budgeting and Purchasing**
    - Both Mayoral Candidates spoke out in favor of delaying the vote and for further discussion on the amendment.
    - Council decided to delay the discussion and vote on this ordinance.
  - **Charter Amendment 2021-1 – Election Date, Nominations Dates & Certified Election Results**
    - Council Passed the Amendment later in the night.
- Various other ordinances and resolutions were voted on and introduced.
  - Two ordinances of note
    - **Ordinance 2021-16 Changes to APFO to relax open space standards for MXD Development**
      - Council approved this ordinance. 3 in Favor, 2 were opposed
    - **Ordinance 2021-18 – Small Cell Towers**
      - Council decided to delay final action to allow for Councilmember Munder to review and make changes to the ordinance if needed.
- Several Charter changes were introduced and scheduled to be heard during the November town council meeting.
  - Topics of the changes include
    - Election date, Nominations Dates & Certified Election Results
    - Finance, Budgeting and Purchasing
    - Duties of the Town Administrator and Town Staff
- The fate of the Flat Iron Building was discussed and Council President Poirier, further discussions may happen during the December Council Meeting.
- Town held a public comment session on its Brownfields Grant Application for the conversion of a portion of the old B & O Rail line on the Western part of Town. This is being done to add this old right-of-way to the rail trail.
- Town approved a contract for a study to evaluate the towns WWTP capacity.
- The Mayoral special election was held on November 2<sup>nd</sup>, and Larry Hushour was elected mayor to fill out the remainder of the term of the former mayor.
- The Town Council and Carroll County Commissioners held a joint meeting in Town Hall on November 23<sup>rd</sup> at 1:00 PM to discuss annexation prospects of the H/L property.
- **Next Town Council Meeting is December 6<sup>th</sup> at 6:20 pm due to public hearings on Charter Amendments 2021-4, -5, and -6.**

## Holly McCleary

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**From:** Jason Poirier  
**Sent:** Friday, November 5, 2021 6:51 PM  
**To:** [REDACTED]  
**Cc:** Stephen Domotor; Karl Munder; Lynne Galletti; Pamela Reed  
**Subject:** Re: Letter to Town Council President and Acting Mayor  
**Attachments:** Letter to Jason Poirier - APFO Waver Ordinance.docx

Thank you [REDACTED] for your letter. While I do represent you, I also represent other constituents with differing opinions of you. I need to take all of these into consideration before voting and then again before signing an ordinance, should I consider veto.

The process that took place, while unorthodox, was lawful and was one of three ways to achieve rezoning. The lawsuit currently involved with GCS and Howard county does not have much foot hold in my opinion.

While you mentioned that the voting numbers were uneven does not necessarily prove that everyone that voted against Pamela disagreed with her position on the Beck property. This is as opinionated as one may get.

This project is far down the road. No pun intended. Center street is not coming through tomorrow. The town will have time to adjust. People have disagreed with every neighborhood that was built here in Mount Airy. But it turned out okay. At least in my opinion.

We will still have our charm. I believe we can achieve both. Continuing our Main Street celebrations, focusing on small businesses, and sharing what makes Mount Airy an amazing place to live will help us thrive. We will not be a ghost town trying to struggle. Let's be proactive and see what future possibilities lie ahead.

To end, 2021-16 has been signed. I'm ready to move on and forward. At times, we will agree and other times we won't, but I will always listen and take your opinions into consideration.

Thank you for your time.

Jason Poirier  
Acting Mayor and Council President  
202-854-0782

On Nov 3, 2021, at 10:13 PM, [REDACTED] > wrote:

Jason,

Letter Attached.  
[REDACTED]



Town Council President and Acting Mayor Jason Poirier  
Town of Mount Airy, Maryland  
November 3, 2021

Dear Jason,

I watch Mount Airy Town Council meetings each month to keep up with decisions made by our elected officials who represent me and all citizens of Mount Airy. As a taxpayer and dedicated volunteer for the Town, I was extremely dismayed that the Council rushed to pass Ordinance 2021-16 without actual council "discussion" about the serious issues and ramifications of this change to our Town Code.


Council members Domotor and Munder presented serious concerns that still need to be worked out and recommended delaying the vote allowing for further discussion. I was disheartened that Council members Galletti, Reed and you engaged in no substantive discussion and showed no concern for the issues raised. A Planning Commission member provided information just prior to the November meeting about a recent lawsuit filed by citizens (who won) in which Howard County changed the rules for a developer. The Council needed time to consider a possible lawsuit. Our Town could be subject of the same type of lawsuit if the ordinance is passed. Ordinance 2021-16 changes our Town Code for a specific developer and situation.

During Town Hearings/Citizens Comments in October and November, a majority of the citizens spoke against passing this ordinance. During the October Recreation and Parks meeting in which Councilwoman Reed is council liaison, members discussed and disagreed with Councilwoman Reed's plan to wave the APFO open space requirement. Beautification members discussed the issue and are not in favor of waving the open space APFO requirement.

The November 2<sup>nd</sup> Mayoral Election overwhelmingly supported Mayoral candidate Hushour. Candidate and incoming Mayor Hushour is against passing Ordinance 2021-16. The ordinance was a major topic of discussion during the campaign. It is clear, by the vote count (1160 Hushour - 548 Reed.... machine count only), that our Town citizens do not agree with Councilwoman Reed's push to get this legislation passed.

Jason, as acting Mayor, you have the opportunity to veto this legislation. Listen to your community. You represent us. This would allow the Town to follow the procedures set out in the Master Plan, protect our Town from a possible lawsuit for favoring a developer and help our community work toward increasing open space as required by APFO.

Sincerely,

  
Mount Airy

## Holly McCleary

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**From:** dickinson1law@[REDACTED]  
**Sent:** Tuesday, November 2, 2021 10:22 AM  
**To:** Karl Munder  
**Subject:** Re: Proposed Ord. 2021-16

I emailed Jason this morning, cc to Tom and John Breeding, reminding him that I mentioned that opinion and handed a hard copy to John. Yesterday wasn't the first time I told the council about it. I thought you going through the numbers was very effective; while it may not have influenced Jason, it probably got the attention of folks who were at or watching the meeting.

[REDACTED]

Leslie

Leslie K Dickinson  
Dickinson Law Firm, LLC  
Tel: 301-639-9469  
[dickinson1law@\[REDACTED\]](mailto:dickinson1law@[REDACTED])

On Tue, Nov 2, 2021 at 9:58 AM Karl Munder <[councilmembermunder@mountairymd.gov](mailto:councilmembermunder@mountairymd.gov)> wrote:

Yep and thanks. As I said after reading the case you provided, and the order of which things were approved, -16 can be considered a special law and open to challenge and repeal. The developers are coming to Mt. Airy with force, just not the Kaz bros. And then Roxanne was passing notes to Dave Bowersox during my talk can lead to accusations of PC in bed with developers. Hopefully, they were just the calculations of my numbers.

Karl

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**From:** Leslie Dickinson  
**Sent:** Monday, November 1, 2021 10:22 PM  
**To:** Karl Munder <[councilmembermunder@mountairymd.gov](mailto:councilmembermunder@mountairymd.gov)>  
**Subject:** Re: Proposed Ord. 2021-16

Karl,

You and Steve did great. Unbelievable that Jason would still vote for it. I handed a hard copy of that opinion to John Breeding last month, but I guess it didn't make its way to the council members.



Leslie

Leslie K Dickinson

Dickinson Law Firm, LLC

PO Box 238

Mt Airy, MD 21771

Tel: 301-639-9469

Dickinson1law@ [REDACTED]

On Mon, Nov 1, 2021 at 8:52 AM Leslie Dickinson <dickinson1law@ [REDACTED]> wrote:

Thank you, Karl.

Leslie K Dickinson

Dickinson Law Firm, LLC

Tel: 301-639-9469

Dickinson1law@ [REDACTED]

On Sun, Oct 31, 2021 at 10:07 PM Karl Munder <councilmembermunder@mountairymd.gov> wrote:

Leslie,

Thank you for your email. I will take them under advisement.

Karl

Get Outlook for iOS

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**From:** Leslie Dickinson <dickinson1law@[REDACTED]>

**Sent:** Sunday, October 31, 2021 9:11:32 PM

**To:** Jason Poirier <councilmemberpoirier@mountairymd.org>; Karl Munder <councilmembermunder@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; STEPHEN DOMOTOR <domotor@[REDACTED]>; Lynne Galletti <councilmembergalletti@mountairymd.gov>

**Cc:** John Breeding <jbreeding@mountairymd.gov>; tmccarron@semmes.com <tmccarron@semmes.com>

**Subject:** Proposed Ord. 2021-16

Good evening, Councilmembers -

As I expressed in my comments at the October hearing, I urge you to vote against this proposed ordinance.

- 1) There is no reason at this point in the process to waive the open space requirement for the MXD zone, or for the Beck property to which it specifically applies. Neither the property owners, the developers nor the counsel person who proposed this ordinance has articulated the necessity of waiving open space requirements prior to any preliminary plans being submitted to the planning commission. Certainly no evidence of this necessity has been presented.
- 2) During numerous discussions and presentations before the planning commission, the KAZ Bros. never requested that the open space requirement be waived, nor indicated that they would be doing so.
- 3) In the Mayoral forum in response to a question regarding this topic, Councilperson Reed (despite not being involved in our discussions, and having no knowledge of our deliberations), asserted that the PC intended for its DTZ decision regarding open space be extended to MXD. To the contrary, interested parties at the time encouraged the PC to extend this **benefit** (the less open space required, the more housing can be built) to MXDCC, but the PC declined; at the time we didn't discuss extending this benefit to MXD, and certainly did not intend to do so.
- 4) By waiving the open space requirements for MXD, the Town would be giving up its right to require the developers to purchase open space in another part of town if it is unable to make its project viable while complying with open space requirements.
- 5) Similarly, if the Town prematurely waives open space requirements, it loses all leverage it has to bargain down the road for something the town may want or need - in exchange for waiving or reducing the requirements for open space. **It is unclear how losing both open space and such potential future opportunities could be in the best interest of the Town and its residents - your constituents.**

6) The ordinance is a special law which targets one landowner/property, which is frowned upon, and is likely unconstitutional. As I mentioned in my comments at the October bill hearing, a Howard County Circuit Court struck down a Howard County ordinance that was clearly meant to address one landowner/property. I provided you with a copy of the Court's Memorandum decision. Howard County appealed the decision to the Court of Special Appeals and oral argument was heard the first week in October. If the CSA upholds the circuit court, its decision will apply to Carroll County and Mt. Airy.

As an aside, no council person should ever text or contact in any manner a planning commission member during a commission meeting. Nor should council members discuss with PC members issues that are going to come before (or return to) the commission. Unlike council members who are permitted to act on behalf of constituents, PC members are not. We are required to be objective.

Best regards,

Leslie K Dickinson

Dickinson Law Firm, LLC

Tel: 301-639-9469

[Dickinson1law@\[REDACTED\]](mailto:Dickinson1law@[REDACTED])



Holly McCleary

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*Thomas V. McCarron*

*Principal*

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[tmccarron@semmes.com](mailto:tmccarron@semmes.com)

<https://www.semmes.com>



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**Thomas V. McCarron**

*Principal*

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Karl

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karl



## Holly McCleary

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**Sent:** Thursday, October 21, 2021 11:09 PM  
**To:** Stephen Domotor  
**Subject:** APFO Cheat Sheet  
**Attachments:** Ordinance 2021-16 cheat sheet.docx

Here is what I put together. It may be wrong, but at least it directs you to the particular parts of town code.

Karl

## Ordinance 2021-16 - APFO reduction for Open Space Summary (Cheat Sheet)

1. Start with Section 112-37.2 of Town Code. This section is the MXD Zoning Requirements. §112-32.2(H) establishes the **Maximum** density for dwelling units (residential component) of 8 units/ total gross acreage of development.
  - a. **Beck Property**
    - i. This parcel is approximately 86 acres. If a developer is allowed the 8 units/acre there is a potential for **688 units**.
    - ii. Development could be a mix of Single Family, Townhomes, Duplexes, villas, and apartments/condos. The ratio of housing types is unknown.
    - iii. The number of allowable units is **NOT RELATED** to the percent of the property that will be used for commercial development, but rather the **TOTAL GROSS ACREAGE** of the project. Thus denser residential development is allowed.
  - b. **H/L Property**
    - i. Parcel is approximately 165 acres. If a developer is allowed the 8 units/acre there is a potential for **1,320 units**. A higher number of units could be allowed if the 85-acre portion of the property that is currently slated for a park is included in the TOTAL GROSS ACREAGE for the calculation. This would allow for the potential of **1,920 total units** to be concentrated on 165 acres of land that is currently identified for development. MXD zoning does not require any acreage set aside for open space or deemed unbuildable to be subtracted from the total gross acreage number.
    - ii. A current proposal before the Carroll County Commissioners is suggesting approximately 1,200 units of active adult housing. This type of development would be allowed under the Town's MXD zoning.
    - iii. Development could be a mix of Single Family, Townhomes, Duplexes, villas, and apartments/condos. The ratio of housing types is unknown.
    - iv. The number of allowable units is **NOT RELATED** to the percent of the property that will be used for commercial development, but rather the **TOTAL GROSS ACREAGE** of the project. Thus denser residential development is allowed.
2. Then read town code §98-23. This establishes the required amount of open space for residential developments.
  - a. Under §98-23(F) 50% of the designated open space **SHALL** be green space and **SHALL** be maintained in a natural, undisturbed condition. This reduces the percentage of open space that can be used for recreation (fields) etc.
  - b. §98-23 (G)(1) establishes the formula for the calculation of open space for residential developments. Town staff needs to calculate the amount of open space required for Beck and H/L under this section. This calculation is for when the town is **not** deemed deficient in open space.

## **Ordinance 2021-16 - APFO reduction for Open Space Summary (Cheat Sheet)**

- c. §98-23 (I)(1) sets the requirement that removes MXD zoned parcels from the open space calculation established earlier in this section, and sets a **flat** 10% of gross acreage requirement for open space for **ANY** property zoned MXD.
  - i. **Beck Property**
    1. Parcel is approximately 86 acres which would only yield about 8.6 acres of land for open space. Half of which is required to be left in a natural and undisturbed state. This would leave about 4 acres for land for fields and active recreation purposes.
    2. If 688 units are allowed to be developed on this property based on the maximum allowed units of 8 units/acre there could be an additional population increase of approximately 1,720 residents. This number is based on a calculation of 2.5 residents per unit.
    3. If the town allows for any land use for public buildings (police station/community center) located on this parcel to count towards the open space acreage, that will reduce the amount the developer is required to provide to the 1, 700 residents on the project. A developer may only be required to provide 2 acres of land for active recreation use for a project located on this parcel
  - ii. **H/L Property**
    1. Parcel is approximately 165 acres, at the 10% open space requirement would yield about 16.5 acres of land for open space, within the confines of the development.
    2. This would be reduced to about 8.2 acres for “active” recreation uses once 50% of the 16 acres is reserved on natural/undisturbed state.
    3. If this property was developed solely as a residential, at 2.5 residents per unit, there would be an addition 3,200 – 4,800 new residents, that would have only approximately 8 acres of land. The total number of new residential units would be 1,300 – 1,900.
    4. Keep in mind that at this moment there is about an 85-acre parcel adjacent to this property that is slated for a park. It is unknown if any potential developer would try to use this as their contribution to open space for this development.
- 3. Ordinance 2021-16
  - a. Alters §25-5 of the town code. This section gives the planning commission the authority to issue a waiver from the open space requirement in §98-23 for a developer doing a residential development in town.
    - i. §25-5 only applies when it has been determined by the parks board that the town is deficient in open space.
    - ii. The town is currently approximately 85 acres below what is needed to meet the open space requirements for its current population.



## **Ordinance 2021-16 - APFO reduction for Open Space Summary (Cheat Sheet)**

- iii. To obtain a waiver from the Planning Commission under this section, a developer must provide an equivalent of 3 acres/100 new residents that the development would add to the population. This open space must be in the development that is built and is for exclusive use by the residents of that development. Overall town residents gain no new open space.
  - b. The ordinance adds §25-5(G)(3)(C) to allow the Planning Commission to issue a waiver for an MXD development if it is proven has met the requirement of 10% of its gross acreage has been set aside for open space as established in §98-23(I)(1), no matter what the density of development is for the site. Current thought for open space requirement is that the denser a residential development is, the more open space it must provide.
- 4. Questions that need to be answered**
- a. If 2021-16 does not pass or is vetoed, what open space requirement would an MXD development be required to follow, the 10% in §98-23(G)(1), or the current requirement of 3 acres/100 new residents for a development, since the town is deficient in open space.
  - b. If the Council wanted to change the MXD open space requirements, where would we start? My thought process would be:
    - i. Lower the allowable max residential unit density found in §112-37.2(H)
    - ii. Then alter § 98-23(I)(1) to set a different requirement for the percentage of land dedicated to open space for a MXD project. For example 20% of gross parcel acreage with a potential for a reduction by the town council, via a recommendation by the Planning Commission once an applicant has been heard why it should be reduced.
    - iii. Then do a new ordinance for §25-5(G)(3)(C) to allow the Planning commission to issue a waiver since the Town is deficient in open space.
  - c. Any open space changes should apply to the Beck property since no shovel has hit dirt or DRRRA has been sign by the town.
  - d. Can all this be done in one ordinance to save time? (question for Tom)

## Holly McCleary

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**From:** Jason Poirier  
**Sent:** Tuesday, October 19, 2021 7:28 PM  
**To:** Karl Munder  
**Subject:** Re: Ordinance 2021-16 APFO "cheat sheet"

No problem. Thanks

Jason Poirier  
Acting Mayor and Council President  
202-854-0782

On Oct 19, 2021, at 6:11 PM, Karl Munder <[councilmembermunder@mountairymd.gov](mailto:councilmembermunder@mountairymd.gov)> wrote:

Yes. So, it may not be the best quality.

---

**From:** Jason Poirier  
**Sent:** Tuesday, October 19, 2021 5:45 PM  
**To:** Karl Munder <[councilmembermunder@mountairymd.gov](mailto:councilmembermunder@mountairymd.gov)>  
**Subject:** Re: Ordinance 2021-16 APFO "cheat sheet"

Okay, thanks. Did you make this?

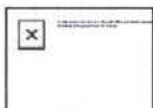
Jason Poirier  
Acting Mayor and Council President  
202-854-0782

On Oct 19, 2021, at 5:39 PM, Karl Munder <[councilmembermunder@mountairymd.gov](mailto:councilmembermunder@mountairymd.gov)> wrote:

Jason,

Attached is a "cheat sheet" for this ordinance. It may help explain the convoluted mess the planning code is and how we got here, and the potential damage if it is approved. There is also a section at the end for the next steps. Hope it helps.

Karl  
<Ordinace 2021-16 cheat sheet.docx>



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## Holly McCleary

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**From:** Karl Munder  
**Sent:** Tuesday, October 19, 2021 5:35 PM  
**To:** [REDACTED]  
**Subject:** RE: Ordinance 2021-16

[REDACTED]

Will do. Was the special treatment the continuation of the special use exception after it had expired.

Karl

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**From:** [REDACTED]  
**Sent:** Tuesday, October 19, 2021 4:43 PM  
**To:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Subject:** Fwd: Ordinance 2021-16

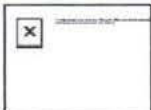
-----Original Message-----

**From:** [REDACTED]  
**To:** [councilmemberdomotor@mountairymd.gov](mailto:councilmemberdomotor@mountairymd.gov) <[councilmemberdomotor@mountairymd.gov](mailto:councilmemberdomotor@mountairymd.gov)>;  
[councilmembemunder@mountairymd.gov](mailto:councilmembemunder@mountairymd.gov) <[councilmembemunder@mountairymd.gov](mailto:councilmembemunder@mountairymd.gov)>;  
[councilmemberpoirier@mountairymd.gov](mailto:councilmemberpoirier@mountairymd.gov) <[councilmemberpoirier@mountairymd.gov](mailto:councilmemberpoirier@mountairymd.gov)>;  
[councilmembergalletti@mountairymd.gov](mailto:councilmembergalletti@mountairymd.gov) <[councilmembergalletti@mountairymd.gov](mailto:councilmembergalletti@mountairymd.gov)>; [council@\[REDACTED\]](mailto:council@[REDACTED])  
<[council@\[REDACTED\]](mailto:council@[REDACTED])>; [councilmemberreed@mountairymd.gov](mailto:councilmemberreed@mountairymd.gov) <[councilmemberreed@mountairymd.gov](mailto:councilmemberreed@mountairymd.gov)>  
**Sent:** Tue, Oct 19, 2021 4:31 pm  
**Subject:** Ordinance 2021-16

Kindly add my name to those who oppose - Ordinance 2021-16 which proposes to give a favorable exemption to a developer who has offered nothing to the town as offsetting compensation for the favoritism it seeks.

Similar special treatment was attempted for the 1010 S. Main Street property a number of years ago. The then sitting council correctly refused to pass an ordinance exempting a business from the rules that were established for good reason.

[REDACTED]



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## Holly McCleary

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**From:** Karl Munder  
**Sent:** Monday, October 18, 2021 1:35 PM  
**To:** Debra Clinton  
**Cc:** John Breeding  
**Subject:** RE: October PC  
**Attachments:** Council Activities Report - October 2021.docx

As requested.

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**From:** Debra Clinton  
**Sent:** Thursday, October 14, 2021 2:20 PM  
**To:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Cc:** John Breeding <jbreeding@mountairymd.gov>  
**Subject:** October PC

Good afternoon Karl,

Please have your liaison report to us by Monday. We will include this in the PC packets. Have a great weekend! 😊

Thank you,

Debra Clinton  
Planning & Zoning Review Coordinator  
P.O. Box 50  
110 South Main Street  
Mount Airy, MD 21771  
301-703-1269  
[dclinton@mountairymd.gov](mailto:dclinton@mountairymd.gov)

## Council Activity Report for the Month of October 2021

- October Council Meeting was held on Monday, October 4<sup>th</sup>. Meeting began at 6:45 pm due to 3 hearings preceding the normal meeting.
- There were three public hearings for the following ordinances, and votes were taken on them during the regular meeting.
  - **Ordinance 2021-16 Changes to APFO to relax open space standards for MXD Development**
    - 6 people came out to speak on the ordinance. Mainly against the ordinance since there is current deficit of open space for the current residents, and relaxing the standards to allow for more residential development will only aggravate the problem on having too little open space for the population.
    - This ordinance can be applied to all of the property that is or will be zoned MXD.
    - Council decided to delay the vote on this ordinance.
  - **Ordinance 2021-17 – To rezone Beck Property to MXD.**
    - Several people spoke on this ordinance. Some were in favor, and some were against it as proposed and the process that was taken to approve the property rezoning.
    - Council voted on this ordinance. 3 in Favor, 2 were Opposed
  - **Ordinance 2021-18 – Small Cell Towers**
    - One person spoke in favor.
    - Council decided to delay final action to allow for Councilmember Munder to review and make changes to the ordinance if needed.
- Various other ordinances and resolutions were voted on and introduced.
- Several Charter changes were introduced and scheduled to be heard during the November town council meeting.
  - Topics of the changes include
    - Election date, Nominations Dates & Certified Election Results
    - Finance, Budgeting and Purchasing
    - Duties of the Town Administrator and Town Staff
- The fate of the Flat Iron Building was discussed and Council President Poirer requested councilmembers to further reduce choices down to their top two choices.
- Councilmember Munder indicated he attended the Carroll Council Commissioner Meeting in September to highlight a letter the Town sent them on the two development choices before them for the Harrison- Leishear property. It was decided that the Commissioners and town set up a joint public hearing in Mount Airy on this. Town is currently in the process of doing this.
- **Next Town Council Meeting is November 1<sup>st</sup> at 6:20 pm due to public hearings.**

## Holly McCleary

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**From:** Lynne Galletti  
**Sent:** Thursday, October 7, 2021 9:21 AM  
**To:** [REDACTED] Jason Poirier; Pamela Reed; Karl Munder; Stephen Domotor  
**Subject:** Re: Thank you

[REDACTED]

Thank you so much for your kind words. We don't often hear positive feedback from residents so thank you again! Also, thank you for taking time to come be heard!

Lynne Galletti  
Councilmember

---

**From:** [REDACTED] >  
**Sent:** Wednesday, October 6, 2021 3:01 PM  
**To:** Jason Poirier <councilmemberpoirier@mountairymd.org>; Pamela Reed <councilmemberreed@mountairymd.gov>; Karl Munder <councilmembermunder@mountairymd.gov>; Lynne Galletti <councilmembergalletti@mountairymd.gov>; Stephen Domotor <councilmemberdomotor@mountairymd.gov>  
**Subject:** Thank you

Hello Councilmembers,

I wanted to say thank you for the opportunity to voice my opinions about Ordinance 2021-16 on Monday night. I wasn't able to stick around for the entire meeting, but I watched the video on Facebook of your subsequent discussion and I just wanted to say that you are all very professional, and I appreciate how thoughtful you all are of everyone's viewpoints, including town citizens and each other. Thank you for all the hard work you put in to represent the citizens of Mt. Airy!

Thanks,  
[REDACTED]



Attorney Client Privileged Communication

Karl

## Holly McCleary

---

**From:** John Breeding  
**Sent:** Tuesday, June 22, 2021 3:59 PM  
**To:** Karl Munder  
**Subject:** FW: Emailing: June 28, 2021 -Planning Commission Agenda REVISED  
**Attachments:** June 28, 2021 -Planning Commission Agenda.docx

FYI

-----Original Message-----

**From:** Debra Clinton <dclinton@mountairymd.gov>  
**Sent:** Tuesday, June 22, 2021 3:52 PM  
**To:** Barney Quinn <bquinn@mountairymd.gov>; billbutts@[REDACTED]; Chaslyn Derexson <cderexson@mountairymd.gov>; Debra Clinton <dclinton@mountairymd.gov>; Weber, Hannah G <hweber@carrollcountymd.gov>; John Breeding <jbreeding@mountairymd.gov>; dickinson1law@[REDACTED]; lindey@[REDACTED]; martina.hatley@[REDACTED]; mlane@carrollcountymd.gov; prockinberg@[REDACTED]; Pamela Reed <councilmemberreed@mountairymd.gov>; roxmtairypanz@[REDACTED]; sirchio@[REDACTED]; tmccarron@semmes.com  
**Subject:** FW: Emailing: June 28, 2021 -Planning Commission Agenda REVISED

Attached is the revised agenda. The website is updated also.

Thank you,

Debra Clinton  
Planning & Zoning Review Coordinator  
P.O. Box 50  
110 South Main Street  
Mount Airy, MD 21771  
301-703-1269  
dclinton@mountairymd.gov

-----Original Message-----

**From:** John Breeding <jbreeding@mountairymd.gov>  
**Sent:** Tuesday, June 22, 2021 10:29 AM  
**To:** Debra Clinton <dclinton@mountairymd.gov>  
**Subject:** Emailing: June 28, 2021 -Planning Commission Agenda REVISED

Deb,

Can you send revised agenda to Planning Commission members and revise the Towns Website also.

Thanks

John,

Your message is ready to be sent with the following file or link attachments:

June 28, 2021 -Planning Commission Agenda

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



PATRICK T. ROCKINBERG  
Mayor

JASON M. POIRIER  
Council President



Council Members  
PAMELA M. REED  
Secretary

KARL L. MUNDER  
LYNNE P. GALLETTI  
STEPHEN L. DOMOTOR

**Planning Commission Meeting Agenda  
June 28, 2021  
7:00 p.m.**

**This meeting is a ZOOM Webinar and will be broadcast LIVE at <https://www.facebook.com/TownofMountAiry/> and [www.carrollmediacenter.org](http://www.carrollmediacenter.org). Public comments can be asked during the meeting by typing a comment via Facebook Live, or by emailing [dclinton@mountairymd.gov](mailto:dclinton@mountairymd.gov) prior to this meeting.**

1. **CALL TO ORDER – PLEDGE OF ALLEGIANCE**

2. **APPROVAL OF MINUTES**

- May 24, 2021

3. **CITIZEN COMMENTS** (for items not on the agenda)

4. **CARROLL / FREDERICK COUNTY PLANNERS**

- Carroll County Planner – Hannah Weber
- Frederick County Planner – Tim Goodfellow

5. **INTRODUCTION & DISCUSSION**

- Proposed Text Change to CC zone type §112-39 – Ms. Leslie Dickinson

6. **INTRODUCTION, DISCUSSION & POSSIBLE APPROVAL**

- S-20-0001, Twin Arch Business Park, Section 3, Lot 32 – Final site development plan.

7. **DISCUSSION AND POSSIBLE RECOMMENDATION** (REMOVED FROM AGENDA)

- Ordinance #2021-16 Proposed Text Change §25-5 Adequate Facilities.
- Ordinance #2021-17 Proposed Text Change §25-3 Zoning Map Amendment (Tax Map, Grid, Parcel) (75,11,4) & (601, 9, 1423) to MXD.

8. **FUTURE ITEMS**

- Master Plan Work Session (Town Hall) – July 8, 2021, at 6:00 p.m.
- Next Planning Commission Meeting Date – July 26, 2021, at 7:00 p.m.

9. **ADJOURNMENT**

**Note:** The regular scheduled meeting and/or workshops will end at 10:00 p.m. Those items remaining for discussion will be held over to the next regular scheduled meeting/workshop.

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P.O. Box 50, Mount Airy, MD 21771  
Telephone: (301) 829-1424 • Fax: (301) 829-1259  
Email: [town@mountairymd.gov](mailto:town@mountairymd.gov) • Web Page: [www.mountairymd.gov](http://www.mountairymd.gov)

Attorney Client Privileged Communication

*Thomas V. McCarron*

*Principal*

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For:  
Introduction and Referral to Planning Commission: 6/7/21  
Planning Commission Review: \_\_\_\_  
Public Hearing \_\_\_\_  
Adoption \_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2021-16**

**AN ORDINANCE TO AMEND PART I OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED “ADMINISTRATIVE LEGISLATION”, CHAPTER 25 ENTITLED “PLANNING COMMISSION”, ARTICLE II ENTITLED “ADEQUATE PUBLIC FACILITIES”, SECTION 25-5 ENTITLED “ADEQUATE FACILITIES”**

**WHEREAS**, the Parks Board has certified that the Town’s parks and open space facilities are “inadequate” as defined in the Town’s Adequate Public Facilities Ordinance (APFO), Section 25-5G(1), applicable to all proposed development within the Town; and

**WHEREAS**, under the current APFO, if the Town is inadequate in terms of parks/open space, a development may not receive concept plan approval unless granted a waiver, and the current APFO does not allow for mitigation or payment of a fee in lieu to allow the development process to proceed during periods of inadequacy as respects parks/open space; and

**WHEREAS**, Subsection G(2) allows the Town Planning Commission to provide a waiver to a development that itself provides 3 acres of open space for every 100 new residents that the development proposes, or a pro rata share thereof, and under certain circumstances for development projects in the Downtown Zone (DTZ); and

**WHEREAS**, while purely industrial or commercial development is not hindered by the APFO open space provisions because such developments, proposing to add zero new residents, can qualify for the aforementioned waiver by providing zero open space, proposed developments in the Mixed Use District (MXS) must meet this threshold to qualify for a waiver; and

**WHEREAS**, the Town wishes to promote development in its MXD, having recently adopted an ordinance creating the MXD, which imposed an open space requirement of 10% of total gross acreage of the project; and

**WHEREAS**, developments in the MXD will not feasibly be able to provide enough open space to meet the threshold to qualify for the Section 25-5G(2) exemption as it is currently set forth in the Code; and

**WHEREAS**, consequently, the Town Council proposes relaxing the standards for meeting the threshold to qualify for a waiver under Section 25-5G(2) for MXD developments such that meeting the Section 98-23I(1) 10% of total gross acreage open space requirement will qualify for the grant of the waiver for Adequate Public Facilities Ordinance purposes; and



**WHEREAS**, this ordinance was originally introduced at the Town Council meeting that occurred on 6/7/20 and referred to the Planning Commission for review pursuant to the Town Code, Section 98-55; and

**WHEREAS**, after review at its regular meeting on \_\_\_\_\_, the Planning Commission voted to forward a \_\_\_\_\_ recommendation; and

**WHEREAS**, after due notice, the Town Council public hearing on this ordinance was duly noticed and advertised and took place on \_\_\_\_\_, 2021; and

**WHEREAS**, the Town Council finds that the changes recommended in this Ordinance as set forth below are desirable and in the best interests of the Town and its residents and hereby adopts this ordinance on the date below indicated with an effective date also below indicated.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Part I, Article II, Chapter 25, Section 25-5 of the Code of the Town of Mount Airy is hereby repealed and reenacted as follows:

**§ 25-5. Adequate facilities.**

\* \* \*

G. Parks and open space.

- (1) Parks and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:
  - (a) Existing population from existing homes;
  - (b) Projected population from future building from residences approved at the preliminary plan stage;
  - (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
  - (d) Projected population from residents in the proposed development project.
- (2) Until such time as s and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:
  - (a) Existing population from existing homes;

- (b) Projected population from future building from residences approved at the preliminary plan stage;
  - (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
  - (d) Projected population from residents in the proposed development project.
- (3) Until such time as the Town's inventory of parks and open space meets the three acres per 100 persons standard, the Planning Commission may waive strict application of the park and open space adequacy standard, provided that each development project that is granted a waiver under this subsection provides at least three acres of park and open space per 100 persons, or a pro-rata portion thereof, of projected population from residents in the proposed development project, with the following exceptions:
- (a) Only for developments located in the Downtown Zone (DTZ) with lots less than or equal to 15,000 square feet, the parks and open space requirement will be fully exempted.
  - (b) Only for developments located in the Downtown Zone (DTZ) with lots greater than 15,000 square feet in accordance with the requirements set forth in this Code applicable thereto, a development project may be granted a waiver under this subsection as follows:

POS - Parks and open space required to be dedicated to the Town of Mount Airy, in acres

TA - Total gross acres of parcel

P - Projected number of resident persons added

CSF - Total gross commercial space in square feet being provided

- [1] Where providing three acres of parks and open space per 100 persons would equate to less than or equal to 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro-rata share of three acres per 100 persons (no exceptions required); or

If  $POS < 0.05 \times TA$ ;

$$POS = \left(\frac{3}{100}\right) \times P$$

- [2] Where providing three acres of parks and open space per 100 persons would equate to more than 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro rata share of 3 acres per 100 persons less 1 person for every 200 square feet of commercial space provided in the proposed development project, or 5% of the gross parcel acreage, whichever is greater, in order to qualify for the exception:

If  $POS > 0.05 \times TA$ ;

$$POS = \left(\frac{3}{100}\right) \times \left(P - \frac{CSF}{200}\right)$$

or

$$POS = 0.05 \times TA;$$

whichever is greater.

- (c) A development project in the Mixed Use District (MXD) may be granted a waiver under this subsection if it provides 10% of the total gross acreage of the project for open space.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Introduced this 7th day of June, 2021.

Enacted this \_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier,  
President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY

This \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney



Introduction and Referral to Planning Commission: 6/7/21  
Planning Commission Review and Recommendation: \_\_\_\_\_  
Public Hearing: \_\_\_\_\_  
Adoption: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2021-17**

AN ORDINANCE TO REVISE AND AMEND THE ZONING MAP OF THE TOWN OF MOUNT AIRY CONSISTENT WITH THE 2013 MASTER PLAN.

**WHEREAS**, in accordance with Section 25-3 of the Code of the Town of Mount Airy, the Mount Airy Planning Commission ("the Commission") is charged with exercising all powers, functions, and duties provided for in Land Use Article, Section 3-101, *et seq.*; and

**WHEREAS**, pursuant to Land Use Article of the Maryland Code, Section 3-301, the Commission reviewed the existing Master Plan ("the Plan") and the Zoning Map ("the Map") for the Town of Mount Airy for the purpose of revising or amending the Plan or Map, as necessary; and

**WHEREAS**, the Commission, in accordance with its powers and duties conferred by law, following study of population growth, land use, roads, agriculture, the economy, water and sewage, open space, schools, and community facilities, as well as other additional elements of importance to the development of the Town and the general welfare of its citizens, held public hearings, duly advertised, on proposed revisions to the existing Plan and Map; and

**WHEREAS**, following such hearings, the Commission voted to recommend revisions and amendments to the Plan and Map and, in conjunction therewith, recommend the zoning classification for certain parcels of land as shown on the Map be changed to be consistent with the revised Plan; and

**WHEREAS**, the Mayor and Town Council of the Town of Mount Airy advertised and held public hearings to receive comments on the recommended changes to the Plan and to the Map as required by law; and

**WHEREAS**, on November 3, 2014, the Mayor and Town Council unanimously approved the adoption of the 2013 Comprehensive ("Master") Plan to include the comprehensive proposed zoning of property within the Town limits; and

**WHEREAS**, the Mayor and Town Council considered the recommendations of the Commission, public comments and recommendations and input from other applicable governmental agencies (including, but not limited to, Carroll County and Frederick County) and determined it to be in the best interest of the citizens of the Town to amend and adopt, as a comprehensive zoning action, the revisions to the Map consistent with the adopted 2013 Comprehensive Master Plan; and

**WHEREAS**, the Mayor and Town Council adopted Ordinance 2014-17 on or about January 5, 2015, a comprehensive rezoning of certain properties in the Town consistent with the then newly adopted Comprehensive Plan; and

**WHEREAS**, at the time of the adoption of the Town's 2013 Comprehensive Plan, and Ordinance 2014-17, the Town had not yet created and adopted the Mixed Use Development (MXD) Zone within the Town; and

**WHEREAS**, the Plan nevertheless contemplated a forthcoming creation and adoption of the MXD Zone; and

**WHEREAS**, specifically, the 2013 Comprehensive Plan nevertheless recognized, at page 66: “[b]oth the Mixed Use Zoning and Office Park and Employment Zoning Classifications have been discussed at the Planning Commission level and are essential components to the future growth pattern guided by the 2013 Comprehensive Master Plan Update”; and

**WHEREAS**, along the Center Street Corridor lie two parcels of land as shown on the Maryland Tax Maps and as described below, located along the Ridge Road (Maryland Route 27) at Center Street, currently owned by the Beck Family, which are currently zoned R7, R3, (CC) Community Commercial and (I) Industrial, the parcels together being commonly referred to, and referred to in the 2013 Comprehensive Plan, as “the Beck Property”; and

**WHEREAS**, the 2013 Comprehensive Plan contemplated that the Beck Property would be rezoned MXD as a part of the comprehensive rezoning pursuant to the Plan, once the Town adopted an MXD zone; and

**WHEREAS**, specifically, the 2013 Comprehensive Plan, at page 87, stated with respect to the Beck Property: “this property has been identified to be among potential candidates for a mixed-use commercial development opportunity with a residential component in the future should a Mixed Use Zoning District become available”; and

**WHEREAS**, the Town Council adopted, and the Mayor signed into law, Ordinance 2020-1 on or about August 3, 2020, adopting and creating the MXD Zone in the Town; and

**WHEREAS**, now that the MXD has been adopted, the Town Council desires to complete the comprehensive rezoning consistent with the 2013 Comprehensive Plan by hereby rezoning the Beck Property, and all the parcels thereof, into the Town's MXD Zone.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section One: The Zoning. Map of the Town of Mount Airy is hereby amended to reflect the following new zoning classifications to the designated parcels of land:



- A. The following Carroll County properties as reflected on the tax maps referenced below (such maps being maintained by the Maryland Department of Assessments and Taxation and as reflected on the Maryland Department of Planning's Finder Online <https://apps.planning.maryland.gov/finderonline/>) are modified as follows:

**Tax Map 75, Grid 11**

Parcel No. 4 (Tax Account No. 13-000468), lying on the West side of Ridge Road (Maryland Route 27) consisting of a total of 54.58 acres of land, more or less, is amended from current zoning within the Town of R7 (36.85 acres, more or less) and Industrial (I) zoning (17.73 acres, more or less) to the Mixed Use Development (MXD) Zone.

**Tax Map 601, Grid 9**

Parcel No. 1423 (Tax Account No. 13-011060), lying on the East side of Ridge Road (Maryland Route 27) consisting of a total of 34.32 acres, more or less, is amended from current zoning within the Town of R3 (13.07 acres, more or less) and Community Commercial (CC) zoning (21.25 acres, more or less) to the Mixed Use Development (MXD) Zone.

Section Two: That except as modified by the amendments contained in Section One above, the existing land use classifications shown and depicted on the existing Zoning Map for the Town of Mount Airy shall remain in full force and effect.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Introduced this 7th day of June, 2021.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

Takes effect this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier, President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney



Holly McCleary

Attorney Client Privileged Communication

**Thomas V. McCarron**

*Principal*

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

[tmccarron@semmes.com](mailto:tmccarron@semmes.com)

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Sent from my iPhone

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**Thomas V. McCarron**

*Principal*

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<image003.jpg>

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<Mt. Airy - Ordinance 2021-17 (TVM0164x7ACC3).rtf>

## Holly McCleary

---

**From:** prockinberg@[REDACTED]  
**Sent:** Tuesday, May 25, 2021 3:17 PM  
**To:** Karl Munder  
**Subject:** Re: MXD APFO proposed ordinance change

1.

Sent from my iPhone

On May 24, 2021, at 1:41 PM, Karl Munder <councilmembermunder@mountairymd.gov> wrote:

Thanks Barney and agree on the discussion

Get [Outlook for iOS](#)

---

**From:** Barney Quinn <bquinn@mountairymd.gov>  
**Sent:** Monday, May 24, 2021 1:37:46 PM  
**To:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Cc:** tmccarron@semmes.com <tmccarron@semmes.com>; prockinberg@[REDACTED] <prockinberg@[REDACTED]>; Jason Poirier <councilmemberpoirier@mountairymd.org>; David Warrington <dwarrington@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; John Breeding <jbreeding@mountairymd.gov>; Holly McCleary <hmcclary@mountairymd.gov>  
**Subject:** Re: MXD APFO proposed ordinance change

Karl,

I am responding to your questions (see below), however since there are 3 Council members on this email I don't think it should be discussed any further with everyone copied.

Thanks,  
Barney

On May 24, 2021, at 12:52 PM, Karl Munder <councilmembermunder@mountairymd.gov> wrote:

A couple of questions that may come up in discussion of this, and we should have answers for, also I would like to know what the answers are.

1. Difference in open space requirements between the 10% and what current code is? APFO would require 54 acres open space whereas MXD would require 9 acres.



2. Would town still have control over how the open space is distributed through out the development? The Town can have some say in where they prefer as part of the development review process.
  3. Advantages and disadvantages to altering the 10% to a minimum percentage? 10% is already a minimum % in comparison to other residential zones.
  4. What items would go toward the open space in the project? From Town engineering perspective we should require 6 acres adjacent to Watkins Park (2 for police, 4 for green space and/or future community center). Rest to be distributed near each cluster of residential units.
  5. Would the 10% allow for a denser development to happen than what would otherwise? Again for the quantity of population growth the 10% is minimal.
  6. Since we seem to be altering the open space for certain things, what will our excuse be when a developer comes in later and wants a reduction in the requirement. This will have to be a case-by-case basis, but generally I would not recommend going below the 10% unless for some reason it requires more than the 3 acres per 100 persons.
- 1.

Fine with the wording of the ordinance and seems to follow what was discussed during the adoption of the MXD ordinance. Just would like the questions answered.

Karl

Attorney Client Privileged Communication

*Thomas V. McCarron*

*Principal*

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

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Attorney Client Privileged Communication

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Open for business and working remotely to serve you.

**Thomas V. McCarron**

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Attorney Client Privileged Communication

Karl

Attorney Client Privileged Communication

Open for business and working remotely to serve you.



**Thomas V. McCarron**

*Principal*

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Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

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**From:** McCarron, Tom

**Sent:** Monday, May 24, 2021 11:41 AM

## Holly McCleary

---

**From:** prockinberg@[REDACTED]  
**Sent:** Tuesday, May 25, 2021 12:01 PM  
**To:** Barney Quinn  
**Cc:** tmccarron@semmes.com; Jason Poirier; David Warrington; Karl Munder; Pamela Reed; John Breeding; Holly McCleary  
**Subject:** Re: MXD APFO proposed ordinance change

I'm in a meeting I'd like to read it and reply in a couple hours

Sent from my iPhone

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Thanks,  
Barney

Attorney Client Privileged Communication

*Thomas V. McCarron*

*Principal*

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Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

[tmccarron@semmes.com](mailto:tmccarron@semmes.com)

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<image001.jpg>

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## Holly McCleary

---

**From:** Pamela Reed  
**Sent:** Tuesday, May 25, 2021 11:49 AM  
**To:** Karl Munder; Barney Quinn  
**Cc:** tmccarron@semmes.com; prockinberg@[REDACTED]; Jason Poirier; David Warrington; John Breeding; Holly McCleary  
**Subject:** Re: MXD APFO proposed ordinance change

Thanks everyone, just now catching up on emails.

I look forward to this discussion at our next meeting.

---

**From:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Sent:** Monday, May 24, 2021 1:41 PM  
**To:** Barney Quinn <bquinn@mountairymd.gov>  
**Cc:** tmccarron@semmes.com <tmccarron@semmes.com>; prockinberg@[REDACTED] <prockinberg@[REDACTED]>; Jason Poirier <councilmemberpoirier@mountairymd.org>; David Warrington <dwarrington@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; John Breeding <jbreeding@mountairymd.gov>; Holly McCleary <hmcclary@mountairymd.gov>  
**Subject:** Re: MXD APFO proposed ordinance change

Thanks Barney and agree on the discussion

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---

**From:** Barney Quinn <bquinn@mountairymd.gov>  
**Sent:** Monday, May 24, 2021 1:37:46 PM  
**To:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Cc:** tmccarron@semmes.com <tmccarron@semmes.com>; prockinberg@[REDACTED] <prockinberg@[REDACTED]>; Jason Poirier <councilmemberpoirier@mountairymd.org>; David Warrington <dwarrington@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; John Breeding <jbreeding@mountairymd.gov>; Holly McCleary <hmcclary@mountairymd.gov>  
**Subject:** Re: MXD APFO proposed ordinance change

Karl,

I am responding to your questions (see below), however since there are 3 Council members on this email I don't think it should be discussed any further with everyone copied.

Thanks,  
Barney

On May 24, 2021, at 12:52 PM, Karl Munder <councilmembermunder@mountairymd.gov> wrote:

A couple of questions that may come up in discussion of this, and we should have answers for, also I would like to know what the answers are.

1. Difference in open space requirements between the 10% and what current code is? APFO would require 54 acres open space whereas MXD would require 9 acres.
2. Would town still have control over how the open space is distributed through out the development? The Town can have some say in where they prefer as part of the development review process.
3. Advantages and disadvantages to altering the 10% to a minimum percentage? 10% is already a minimum % in comparison to other residential zones.
4. What items would go toward the open space in the project? From Town engineering perspective we should require 6 acres adjacent to Watkins Park (2 for police, 4 for green space and/or future community center). Rest to be distributed near each cluster of residential units.
5. Would the 10% allow for a denser development to happen than what would otherwise? Again for the quantity of population growth the 10% is minimal.
6. Since we seem to be altering the open space for certain things, what will our excuse be when a developer comes in later and wants a reduction in the requirement. This will have to be a case-by-case basis, but generally I would not recommend going below the 10% unless for some reason it requires more than the 3 acres per 100 persons.

1.

Fine with the wording of the ordinance and seems to follow what was discussed during the adoption of the MXD ordinance. Just would like the questions answered.

Karl

Attorney Client Privileged Communication

*Thomas V. McCarron*

*Principal*

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

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## Holly McCleary

---

**From:** Jason Poirier  
**Sent:** Monday, May 24, 2021 12:43 PM  
**To:** Barney Quinn  
**Cc:** tmccarron@semmes.com; prockinberg@[REDACTED]; David Warrington; Karl Munder; Pamela Reed; John Breeding; Holly McCleary; Stephen Domotor  
**Subject:** Re: MXD APFO proposed ordinance change

I forward to Stephen and added. FYI

Council President Jason Poirier

Attorney Client Privileged Communication

Thanks,  
Barney

Attorney Client Privileged Communication

**Thomas V. McCarron**

*Principal*

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

[tmccarron@semmes.com](mailto:tmccarron@semmes.com)

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<image001.jpg>

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**Holly McCleary**

Attorney Client Privileged Communication

*Holly McCleary*  
Town Clerk  
Human Resource Manager  
Accounts Receivable Clerk  
Town of Mount Airy  
110 S. Main Street  
PO Box 50  
Mount Airy, MD 21771  
P: 301-829-1477  
F: 301-829-1259

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Holly McCleary

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For:  
Introduction and Referral to Planning Commission: 6/7/21  
Planning Commission Review: \_\_\_\_  
Public Hearing \_\_\_\_  
Adoption \_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2021-16**

**AN ORDINANCE TO AMEND PART I OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED “ADMINISTRATIVE LEGISLATION”, CHAPTER 25 ENTITLED “PLANNING COMMISSION”, ARTICLE II ENTITLED “ADEQUATE PUBLIC FACILITIES”, SECTION 25-5 ENTITLED “ADEQUATE FACILITIES”**

**WHEREAS**, the Parks Board has certified that the Town’s parks and open space facilities are “inadequate” as defined in the Town’s Adequate Public Facilities Ordinance (APFO), Section 25-5G(1), applicable to all proposed development within the Town; and

**WHEREAS**, under the current APFO, if the Town is inadequate in terms of parks/open space, a development may not receive concept plan approval unless granted a waiver, and the current APFO does not allow for mitigation or payment of a fee in lieu to allow the development process to proceed during periods of inadequacy as respects parks/open space; and

**WHEREAS**, Subsection G(2) allows the Town Planning Commission to provide a waiver to a development that itself provides 3 acres of open space for every 100 new residents that the development proposes, or a pro rata share thereof, and under certain circumstances for development projects in the Downtown Zone (DTZ); and

**WHEREAS**, while purely industrial or commercial development is not hindered by the APFO open space provisions because such developments, proposing to add zero new residents, can qualify for the aforementioned waiver by providing zero open space, proposed developments in the Mixed Use District (MXS) must meet this threshold to qualify for a waiver; and

**WHEREAS**, the Town wishes to promote development in its MXD, having recently adopted an ordinance creating the MXD, which imposed an open space requirement of 10% of total gross acreage of the project; and

**WHEREAS**, developments in the MXD will not feasibly be able to provide enough open space to meet the threshold to qualify for the Section 25-5G(2) exemption as it is currently set forth in the Code; and

**WHEREAS**, consequently, the Town Council proposes relaxing the standards for meeting the threshold to qualify for a waiver under Section 25-5G(2) for MXD developments such that meeting the Section 98-23I(1) 10% of total gross acreage open space requirement will qualify for the grant of the waiver for Adequate Public Facilities Ordinance purposes; and

**WHEREAS**, this ordinance was originally introduced at the Town Council meeting that occurred on 6/7/20 and referred to the Planning Commission for review pursuant to the Town Code, Section 98-55; and

**WHEREAS**, after review at its regular meeting on \_\_\_\_\_, the Planning Commission voted to forward a \_\_\_\_\_ recommendation; and

**WHEREAS**, after due notice, the Town Council public hearing on this ordinance was duly noticed and advertised and took place on \_\_\_\_\_, 2021; and

**WHEREAS**, the Town Council finds that the changes recommended in this Ordinance as set forth below are desirable and in the best interests of the Town and its residents and hereby adopts this ordinance on the date below indicated with an effective date also below indicated.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Part I, Article II, Chapter 25, Section 25-5 of the Code of the Town of Mount Airy is hereby repealed and reenacted as follows:

**§ 25-5. Adequate facilities.**

\* \* \*

G. Parks and open space.

(1) Parks and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:

- (a) Existing population from existing homes;
- (b) Projected population from future building from residences approved at the preliminary plan stage;
- (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
- (d) Projected population from residents in the proposed development project.

(2) Until such time as s and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:

- (a) Existing population from existing homes;



- (b) Projected population from future building from residences approved at the preliminary plan stage;
  - (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
  - (d) Projected population from residents in the proposed development project.
- (3) Until such time as the Town's inventory of parks and open space meets the three acres per 100 persons standard, the Planning Commission may waive strict application of the park and open space adequacy standard, provided that each development project that is granted a waiver under this subsection provides at least three acres of park and open space per 100 persons, or a pro-rata portion thereof, of projected population from residents in the proposed development project, with the following exceptions:

- (a) Only for developments located in the Downtown Zone (DTZ) with lots less than or equal to 15,000 square feet, the parks and open space requirement will be fully exempted.
- (b) Only for developments located in the Downtown Zone (DTZ) with lots greater than 15,000 square feet in accordance with the requirements set forth in this Code applicable thereto, a development project may be granted a waiver under this subsection as follows:

POS - Parks and open space required to be dedicated to the Town of Mount Airy, in acres

TA - Total gross acres of parcel

P - Projected number of resident persons added

CSF - Total gross commercial space in square feet being provided

- [1] Where providing three acres of parks and open space per 100 persons would equate to less than or equal to 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro-rata share of three acres per 100 persons (no exceptions required); or

$$\text{If } \text{POS} < 0.05 \times \text{TA};$$

$$\text{POS} = \left(\frac{3}{100}\right) \times \text{P}$$

- [2] Where providing three acres of parks and open space per 100 persons would equate to more than 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro rata share of 3 acres per 100 persons less 1 person for every 200 square feet of commercial space provided in the proposed development project, or 5% of the gross parcel acreage, whichever is greater, in order to qualify for the exception:

If  $POS > 0.05 \times TA$ ;

$$POS = \left(\frac{3}{100}\right) \times \left(P - \frac{CSF}{200}\right)$$

or

$POS = 0.05 \times TA$ ;

whichever is greater.

- (c) A development project in the Mixed Use District (MXD) may be granted a waiver under this subsection if it provides 10% of the total gross acreage of the project for open space.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Introduced this 7th day of June, 2021.

Enacted this \_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier,  
President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.



ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY

This \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney

## Holly McCleary

---

**From:** Karl Munder  
**Sent:** Monday, October 18, 2021 1:35 PM  
**To:** Debra Clinton  
**Cc:** John Breeding  
**Subject:** RE: October PC  
**Attachments:** Council Activities Report - October 2021.docx

As requested.

---

**From:** Debra Clinton  
**Sent:** Thursday, October 14, 2021 2:20 PM  
**To:** Karl Munder <councilmembermunder@mountairymd.gov>  
**Cc:** John Breeding <jbreeding@mountairymd.gov>  
**Subject:** October PC

Good afternoon Karl,

Please have your liaison report to us by Monday. We will include this in the PC packets. Have a great weekend! 😊

Thank you,

Debra Clinton  
Planning & Zoning Review Coordinator  
P.O. Box 50  
110 South Main Street  
Mount Airy, MD 21771  
301-703-1269  
[dclinton@mountairymd.gov](mailto:dclinton@mountairymd.gov)

## Council Activity Report for the Month of October 2021

- October Council Meeting was held on Monday, October 4<sup>th</sup>. Meeting began at 6:45 pm due to 3 hearings preceding the normal meeting.
- There were three public hearings for the following ordinances, and votes were taken on them during the regular meeting.
  - **Ordinance 2021-16 Changes to APFO to relax open space standards for MXD Development**
    - 6 people came out to speak on the ordinance. Mainly against the ordinance since there is current deficit of open space for the current residents, and relaxing the standards to allow for more residential development will only aggravate the problem on having too little open space for the population.
    - This ordinance can be applied to all of the property that is or will be zoned MXD.
    - Council decided to delay the vote on this ordinance.
  - **Ordinance 2021-17 – To rezone Beck Property to MXD.**
    - Several people spoke on this ordinance. Some were in favor, and some were against it as proposed and the process that was taken to approve the property rezoning.
    - Council voted on this ordinance. 3 in Favor, 2 were Opposed
  - **Ordinance 2021-18 – Small Cell Towers**
    - One person spoke in favor.
    - Council decided to delay final action to allow for Councilmember Munder to review and make changes to the ordinance if needed.
- Various other ordinances and resolutions were voted on and introduced.
- Several Charter changes were introduced and scheduled to be heard during the November town council meeting.
  - Topics of the changes include
    - Election date, Nominations Dates & Certified Election Results
    - Finance, Budgeting and Purchasing
    - Duties of the Town Administrator and Town Staff
- The fate of the Flat Iron Building was discussed and Council President Poirer requested councilmembers to further reduce choices down to their top two choices.
- Councilmember Munder indicated he attended the Carroll Council Commissioner Meeting in September to highlight a letter the Town sent them on the two development choices before them for the Harrison- Leishear property. It was decided that the Commissioners and town set up a joint public hearing in Mount Airy on this. Town is currently in the process of doing this.
- **Next Town Council Meeting is November 1<sup>st</sup> at 6:20 pm due to public hearings.**

## Holly McCleary

---

**From:** John Breeding  
**Sent:** Tuesday, June 22, 2021 3:59 PM  
**To:** Karl Munder  
**Subject:** FW: Emailing: June 28, 2021 -Planning Commission Agenda REVISED  
**Attachments:** June 28, 2021 -Planning Commission Agenda.docx

FYI

-----Original Message-----

**From:** Debra Clinton <dclinton@mountairymd.gov>  
**Sent:** Tuesday, June 22, 2021 3:52 PM  
**To:** Barney Quinn <bquinn@mountairymd.gov>; billbutts@[REDACTED]; Chaslyn Derexson <cderexson@mountairymd.gov>; Debra Clinton <dclinton@mountairymd.gov>; Weber, Hannah G <hweber@carrollcountymd.gov>; John Breeding <jbreeding@mountairymd.gov>; dickinson1law@[REDACTED]; lindey@[REDACTED]; martina.hatley@[REDACTED]; mlane@carrollcountymd.gov; prockinberg@[REDACTED]; Pamela Reed <councilmemberreed@mountairymd.gov>; roxmtairypanz@[REDACTED]; sirchio@[REDACTED]; tmccarron@semmes.com  
**Subject:** FW: Emailing: June 28, 2021 -Planning Commission Agenda REVISED

Attached is the revised agenda. The website is updated also.

Thank you,

Debra Clinton  
Planning & Zoning Review Coordinator  
P.O. Box 50  
110 South Main Street  
Mount Airy, MD 21771  
301-703-1269  
dclinton@mountairymd.gov

-----Original Message-----

**From:** John Breeding <jbreeding@mountairymd.gov>  
**Sent:** Tuesday, June 22, 2021 10:29 AM  
**To:** Debra Clinton <dclinton@mountairymd.gov>  
**Subject:** Emailing: June 28, 2021 -Planning Commission Agenda REVISED

Deb,

Can you send revised agenda to Planning Commission members and revise the Towns Website also.

Thanks

John,

Your message is ready to be sent with the following file or link attachments:

June 28, 2021 -Planning Commission Agenda



Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

PATRICK T. ROCKINBERG  
Mayor

JASON M. POIRIER  
Council President



Council Members  
PAMELA M. REED  
Secretary

KARL L. MUNDER  
LYNNE P. GALLETTI  
STEPHEN L. DOMOTOR

Planning Commission Meeting Agenda  
June 28, 2021  
7:00 p.m.

**This meeting is a ZOOM Webinar and will be broadcast LIVE at <https://www.facebook.com/TownofMountAiry/> and [www.carrollmediacenter.org](http://www.carrollmediacenter.org). Public comments can be asked during the meeting by typing a comment via Facebook Live, or by emailing [dclinton@mountairymd.gov](mailto:dclinton@mountairymd.gov) prior to this meeting.**

1. **CALL TO ORDER – PLEDGE OF ALLEGIANCE**

2. **APPROVAL OF MINUTES**

- May 24, 2021

3. **CITIZEN COMMENTS (for items not on the agenda)**

4. **CARROLL / FREDERICK COUNTY PLANNERS**

- Carroll County Planner – Hannah Weber
- Frederick County Planner – Tim Goodfellow

5. **INTRODUCTION & DISCUSSION**

- Proposed Text Change to CC zone type §112-39 – Ms. Leslie Dickinson

6. **INTRODUCTION, DISCUSSION & POSSIBLE APPROVAL**

- S-20-0001, Twin Arch Business Park, Section 3, Lot 32 – Final site development plan.

7. **DISCUSSION AND POSSIBLE RECOMMENDATION (REMOVED FROM AGENDA)**

- Ordinance #2021-16 Proposed Text Change §25-5 Adequate Facilities.
- Ordinance #2021-17 Proposed Text Change §25-3 Zoning Map Amendment (Tax Map, Grid, Parcel) (75,11,4) & (601, 9, 1423) to MXD.

8. **FUTURE ITEMS**

- Master Plan Work Session (Town Hall) – July 8, 2021, at 6:00 p.m.
- Next Planning Commission Meeting Date – July 26, 2021, at 7:00 p.m.

9. **ADJOURNMENT**

**Note:** The regular scheduled meeting and/or workshops will end at 10:00 p.m. Those items remaining for discussion will be held over to the next regular scheduled meeting/workshop.

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P.O. Box 50, Mount Airy, MD 21771  
Telephone: (301) 829-1424 • Fax: (301) 829-1259  
Email: [town@mountairymd.gov](mailto:town@mountairymd.gov) • Web Page: [www.mountairymd.gov](http://www.mountairymd.gov)

Attorney Client Privileged Communication

*Thomas V. McCarron*

*Principal*

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

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Introduction and Referral to Planning Commission: 6/7/21  
Planning Commission Review and Recommendation: \_\_\_\_\_  
Public Hearing: \_\_\_\_\_  
Adoption: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

## THE TOWN OF MOUNT AIRY, MARYLAND

### ORDINANCE NO. 2021-17

AN ORDINANCE TO REVISE AND AMEND THE ZONING MAP OF THE TOWN OF MOUNT AIRY CONSISTENT WITH THE 2013 MASTER PLAN.

**WHEREAS**, in accordance with Section 25-3 of the Code of the Town of Mount Airy, the Mount Airy Planning Commission ("the Commission") is charged with exercising all powers, functions, and duties provided for in Land Use Article, Section 3-101, *et seq.*; and

**WHEREAS**, pursuant to Land Use Article of the Maryland Code, Section 3-301, the Commission reviewed the existing Master Plan ("the Plan") and the Zoning Map ("the Map") for the Town of Mount Airy for the purpose of revising or amending the Plan or Map, as necessary; and

**WHEREAS**, the Commission, in accordance with its powers and duties conferred by law, following study of population growth, land use, roads, agriculture, the economy, water and sewage, open space, schools, and community facilities, as well as other additional elements of importance to the development of the Town and the general welfare of its citizens, held public hearings, duly advertised, on proposed revisions to the existing Plan and Map; and

**WHEREAS**, following such hearings, the Commission voted to recommend revisions and amendments to the Plan and Map and, in conjunction therewith, recommend the zoning classification for certain parcels of land as shown on the Map be changed to be consistent with the revised Plan; and

**WHEREAS**, the Mayor and Town Council of the Town of Mount Airy advertised and held public hearings to receive comments on the recommended changes to the Plan and to the Map as required by law; and

**WHEREAS**, on November 3, 2014, the Mayor and Town Council unanimously approved the adoption of the 2013 Comprehensive ("Master") Plan to include the comprehensive proposed zoning of property within the Town limits; and

**WHEREAS**, the Mayor and Town Council considered the recommendations of the Commission, public comments and recommendations and input from other applicable governmental agencies (including, but not limited to, Carroll County and Frederick County) and determined it to be in the best interest of the citizens of the Town to amend and adopt, as a comprehensive zoning action, the revisions to the Map consistent with the adopted 2013 Comprehensive Master Plan; and



**WHEREAS**, the Mayor and Town Council adopted Ordinance 2014-17 on or about January 5, 2015, a comprehensive rezoning of certain properties in the Town consistent with the then newly adopted Comprehensive Plan; and

**WHEREAS**, at the time of the adoption of the Town's 2013 Comprehensive Plan, and Ordinance 2014-17, the Town had not yet created and adopted the Mixed Use Development (MXD) Zone within the Town; and

**WHEREAS**, the Plan nevertheless contemplated a forthcoming creation and adoption of the MXD Zone; and

**WHEREAS**, specifically, the 2013 Comprehensive Plan nevertheless recognized, at page 66: “[b]oth the Mixed Use Zoning and Office Park and Employment Zoning Classifications have been discussed at the Planning Commission level and are essential components to the future growth pattern guided by the 2013 Comprehensive Master Plan Update”; and

**WHEREAS**, along the Center Street Corridor lie two parcels of land as shown on the Maryland Tax Maps and as described below, located along the Ridge Road (Maryland Route 27) at Center Street, currently owned by the Beck Family, which are currently zoned R7, R3, (CC) Community Commercial and (I) Industrial, the parcels together being commonly referred to, and referred to in the 2013 Comprehensive Plan, as “the Beck Property”; and

**WHEREAS**, the 2013 Comprehensive Plan contemplated that the Beck Property would be rezoned MXD as a part of the comprehensive rezoning pursuant to the Plan, once the Town adopted an MXD zone; and

**WHEREAS**, specifically, the 2013 Comprehensive Plan, at page 87, stated with respect to the Beck Property: “this property has been identified to be among potential candidates for a mixed-use commercial development opportunity with a residential component in the future should a Mixed Use Zoning District become available”; and

**WHEREAS**, the Town Council adopted, and the Mayor signed into law, Ordinance 2020-1 on or about August 3, 2020, adopting and creating the MXD Zone in the Town; and

**WHEREAS**, now that the MXD has been adopted, the Town Council desires to complete the comprehensive rezoning consistent with the 2013 Comprehensive Plan by hereby rezoning the Beck Property, and all the parcels thereof, into the Town's MXD Zone.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section One: The Zoning. Map of the Town of Mount Airy is hereby amended to reflect the following new zoning classifications to the designated parcels of land:

- A. The following Carroll County properties as reflected on the tax maps referenced below (such maps being maintained by the Maryland Department of Assessments and Taxation and as reflected on the Maryland Department of Planning's Finder Online <https://apps.planning.maryland.gov/finderonline/>) are modified as follows:

**Tax Map 75, Grid 11**

Parcel No. 4 (Tax Account No. 13-000468), lying on the West side of Ridge Road (Maryland Route 27) consisting of a total of 54.58 acres of land, more or less, is amended from current zoning within the Town of R7 (36.85 acres, more or less) and Industrial (I) zoning (17.73 acres, more or less) to the Mixed Use Development (MXD) Zone.

**Tax Map 601, Grid 9**

Parcel No. 1423 (Tax Account No. 13-011060), lying on the East side of Ridge Road (Maryland Route 27) consisting of a total of 34.32 acres, more or less, is amended from current zoning within the Town of R3 (13.07 acres, more or less) and Community Commercial (CC) zoning (21.25 acres, more or less) to the Mixed Use Development (MXD) Zone.

Section Two: That except as modified by the amendments contained in Section One above, the existing land use classifications shown and depicted on the existing Zoning Map for the Town of Mount Airy shall remain in full force and effect.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Introduced this 7th day of June, 2021.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

Takes effect this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier, President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney



For:  
Introduction and Referral to Planning Commission: 6/7/21  
Planning Commission Review: \_\_\_\_  
Public Hearing \_\_\_\_  
Adoption \_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2021-16**

**AN ORDINANCE TO AMEND PART I OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED “ADMINISTRATIVE LEGISLATION”, CHAPTER 25 ENTITLED “PLANNING COMMISSION”, ARTICLE II ENTITLED “ADEQUATE PUBLIC FACILITIES”, SECTION 25-5 ENTITLED “ADEQUATE FACILITIES”**

**WHEREAS**, the Parks Board has certified that the Town’s parks and open space facilities are “inadequate” as defined in the Town’s Adequate Public Facilities Ordinance (APFO), Section 25-5G(1), applicable to all proposed development within the Town; and

**WHEREAS**, under the current APFO, if the Town is inadequate in terms of parks/open space, a development may not receive concept plan approval unless granted a waiver, and the current APFO does not allow for mitigation or payment of a fee in lieu to allow the development process to proceed during periods of inadequacy as respects parks/open space; and

**WHEREAS**, Subsection G(2) allows the Town Planning Commission to provide a waiver to a development that itself provides 3 acres of open space for every 100 new residents that the development proposes, or a pro rata share thereof, and under certain circumstances for development projects in the Downtown Zone (DTZ); and

**WHEREAS**, while purely industrial or commercial development is not hindered by the APFO open space provisions because such developments, proposing to add zero new residents, can qualify for the aforementioned waiver by providing zero open space, proposed developments in the Mixed Use District (MXS) must meet this threshold to qualify for a waiver; and

**WHEREAS**, the Town wishes to promote development in its MXD, having recently adopted an ordinance creating the MXD, which imposed an open space requirement of 10% of total gross acreage of the project; and

**WHEREAS**, developments in the MXD will not feasibly be able to provide enough open space to meet the threshold to qualify for the Section 25-5G(2) exemption as it is currently set forth in the Code; and

**WHEREAS**, consequently, the Town Council proposes relaxing the standards for meeting the threshold to qualify for a waiver under Section 25-5G(2) for MXD developments such that meeting the Section 98-23I(1) 10% of total gross acreage open space requirement will qualify for the grant of the waiver for Adequate Public Facilities Ordinance purposes; and



**WHEREAS**, this ordinance was originally introduced at the Town Council meeting that occurred on 6/7/20 and referred to the Planning Commission for review pursuant to the Town Code, Section 98-55; and

**WHEREAS**, after review at its regular meeting on \_\_\_\_\_, the Planning Commission voted to forward a \_\_\_\_\_ recommendation; and

**WHEREAS**, after due notice, the Town Council public hearing on this ordinance was duly noticed and advertised and took place on \_\_\_\_\_, 2021; and

**WHEREAS**, the Town Council finds that the changes recommended in this Ordinance as set forth below are desirable and in the best interests of the Town and its residents and hereby adopts this ordinance on the date below indicated with an effective date also below indicated.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Part I, Article II, Chapter 25, Section 25-5 of the Code of the Town of Mount Airy is hereby repealed and reenacted as follows:

**§ 25-5. Adequate facilities.**

\* \* \*

G. Parks and open space.

- (1) Parks and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:
  - (a) Existing population from existing homes;
  - (b) Projected population from future building from residences approved at the preliminary plan stage;
  - (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
  - (d) Projected population from residents in the proposed development project.
- (2) Until such time as s and open space provisions are adequate if the Parks Department certifies that the ratio of parks and open space acreage to population will meet or exceed at least three acres per 100 persons, considering:
  - (a) Existing population from existing homes;

- (b) Projected population from future building from residences approved at the preliminary plan stage;
  - (c) Projected population from future building from residences under construction or from recorded lots from previously approved preliminary plans for which a permit could be issued at any time in the future;
  - (d) Projected population from residents in the proposed development project.
- (3) Until such time as the Town's inventory of parks and open space meets the three acres per 100 persons standard, the Planning Commission may waive strict application of the park and open space adequacy standard, provided that each development project that is granted a waiver under this subsection provides at least three acres of park and open space per 100 persons, or a pro-rata portion thereof, of projected population from residents in the proposed development project, with the following exceptions:
- (a) Only for developments located in the Downtown Zone (DTZ) with lots less than or equal to 15,000 square feet, the parks and open space requirement will be fully exempted.
  - (b) Only for developments located in the Downtown Zone (DTZ) with lots greater than 15,000 square feet in accordance with the requirements set forth in this Code applicable thereto, a development project may be granted a waiver under this subsection as follows:

POS - Parks and open space required to be dedicated to the Town of Mount Airy, in acres

TA - Total gross acres of parcel

P - Projected number of resident persons added

CSF - Total gross commercial space in square feet being provided

- [1] Where providing three acres of parks and open space per 100 persons would equate to less than or equal to 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro-rata share of three acres per 100 persons (no exceptions required); or

$$\text{If } \text{POS} < 0.05 \times \text{TA};$$

$$\text{POS} = \left(\frac{3}{100}\right) \times \text{P}$$

- [2] Where providing three acres of parks and open space per 100 persons would equate to more than 5% of the total gross parcel acreage of the proposed development, then the development must provide the pro rata share of 3 acres per 100 persons less 1 person for every 200 square feet of commercial space provided in the proposed development project, or 5% of the gross parcel acreage, whichever is greater, in order to qualify for the exception:

If  $POS > 0.05 \times TA$ ;

$$POS = \left(\frac{3}{100}\right) \times \left(P - \frac{CSF}{200}\right)$$

or

$$POS = 0.05 \times TA;$$

whichever is greater.

- (c) A development project in the Mixed Use District (MXD) may be granted a waiver under this subsection if it provides 10% of the total gross acreage of the project for open space.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Introduced this 7th day of June, 2021.

Enacted this \_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Jason Poirier,  
President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Pamela Reed, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY

This \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney



Attorney Client Privileged Communication

Agreement between the Kazanijan Brothers and the Town of Mt. Airy

This agreement between the Town of Mt. Airy, Maryland (Town) and the Kazanijan Brothers (Kaz Bros) pertains to certain physical and transferable items/rights related to what is commonly known as the "Beck Property" by the two parties. The items have been agreed upon by the Town and the Kaz Bros:

1. The Kaz Bros will transfer 5 acres of continuous and usable property to the Town for community use at no cost to the Town. The exact parcel location will be determined at a later date, but it shall be on the North side of the proposed route of Center Street within any proposed development. This parcel shall not be counted towards any dedicated open space acreage the town will require for the development of the property.
2. The Kaz Bros agree to still comply with any acreage requirements imposed by the Town to be dedicated as open space within the proposed development.
3. The Kaz Bros will either give or sell to the Town the right away for the completion of Center Street through the Beck Property. The route of the right of way shall be determined by the town and the Kaz Bros. If the land associated with the Center Street Right away is sold to the town, the price per acreage shall be affixed at the current price for agriculturally zoned land in the 21771 zip code. The price will be the average of 3 appraisals completed by appraisers licensed by the State of Maryland.
4. The Town will provide funding or in kind work for costs related to the design Center Street.

The items above shall be included in any Developer Rights and Responsibility Agreement (DARA) between the Town and the Kaz Bros. If no DARA is agreed upon, then the above items shall be a separate agreement between the Town and the Kaz Bros, and will be signed prior to any site planning approval process begins for the Beck Property.

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Victor Kazanijan

Kaz Brothers Development

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David Warrington

Town Administrator, Town of  
Mt.Airy

Attorney Client Privileged Communication

Attorney Client Privileged Communication

**Thomas V. McCarron**

*Principal*

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