



FREDERICK

PLANNING

January 23, 2026
REVISED February 4, 2026

Mr. Bruce Dean
McCurdy, Dean & Graditor, LLC
31 W. Patrick Street, Suite 130
Frederick, MD 21701

Re: PC25-626ZTA, Text Amendment, Critical Data Infrastructure

Dear Mr. Dean,

The first review of your application for a text amendment to the Land Management Code (LMC) to establish Critical Data Infrastructure and Critical Digital Infrastructure Electric Substation as land uses and the respective framework for regulating them is complete. Below is Staff's evaluation of the proposal.

The need for Critical Data Infrastructure (hereafter, "CDI" inclusive of supporting electrical substations) to support society's ever-increasing reliance on information technology and the potential benefits of, are recognized in 2020 Comprehensive Plan. The Future Land Use Map (Fig. 2-18) identifies data centers as potential land uses in areas identified as Business Park. Further, the Land Use Chapter addresses the need for the City to be competitive in attracting emerging industries and states, *"As technology and commerce continually evolve, the City will ensure that it is in a competitive position to capture the potential demand for fulfillment warehouses and data centers. This could involve a variety of incentives including a preference for annexations that include light industrial land to accommodate these uses or encouraging redevelopment that comprises fulfillment to meet the needs of the users and provide quick deliveries to our residential neighborhoods."* (Land Use Chapter, Pg 2-53)

However, this application is proposed in the context of a rapidly shifting landscape. While Frederick County recently took steps to expand its CDI Overlay Zone (CDI-OZ), in other communities, including Baltimore County and Carroll County, representatives are proposing legislation to pause CDI activity while further analysis is conducted. In Montgomery County there are competing pieces of legislation, one introducing a zoning framework to accommodate CDI and the other, to establish a task force to study their impacts further, reflecting internal uncertainties about the emerging land use. At the State level, there is recognition that further study needs to occur in the areas of environmental, economic and energy impacts.

It is with this context in mind that a much broader policy discussion can be expected, one that reaches beyond the scope of the LMC to address potential fiscal and environmental impacts along with electricity and water demands, in addition to standard land use controls. Further, the demand for resources, namely water, must be fully understood, or regulated to the extent that there is certainty that accommodating CDI will not occur at the expense of meeting other growth objectives of the City, including those related to affordable housing and an adequate housing supply.

The comments below first address substantive issues that are part of that broader policy conversation, followed by technical comments on the draft amendments. It is anticipated that the substantive comments will require additional changes to the proposed language and further refinement will prompt additional technical comments.

SUBSTANTIVE COMMENTS

1. Based on the above factors and the uncertainty that surrounds some of the fundamental impacts and potential demands created by CDI infrastructure, Staff does not support the use as being permitted “by right.” As suggested in the justification statement, the elected body should be responsible for the proliferation of CDI infrastructure and as such, a more appropriate tool would be the creation of a CDI floating zone that can be placed upon the request of a property owner(s) based on compliance with established development and performance standards for the district as well as Section 306 of the LMC, which requires the Council to make findings of fact related to:

- A. Population change;
- B. The availability of public facilities;
- C. Present and future transportation patterns;
- D. Compatibility with existing and proposed development for the area; and
- E. The relationship of the proposed amendment to the City's comprehensive plan.
- F. And further they must find that
- G. The proposed development project is compatible with the character of the existing uses in the vicinity; and
- H. The proposed rezoning is harmony with the comprehensive plan.

And then after making findings on those items, the Council may apply the floating zone if they find that:

- A. The proposed development project complies with the criteria established for the particular floating zone requested;
- B. The proposed development project is compatible with the character of the existing uses in the vicinity; and
- C. The proposed rezoning is harmony with the comprehensive plan.

The floating zone approach allows for a contextually specific proposal in terms of the location and adjacency of surrounding uses as well as the scale and scope of the improvement proposed. The applicability of the floating zone can be defined by the Council such that the proposed parameters for allowing it “by right” (M1 or M2 zoning and minimum lot size of 75 acres) could serve as the bases for where the floating zone is allowed to be placed.

Lastly, as part of the new floating zone section, Staff recommends incorporating language that expressly states that the Council can attach conditions to the rezoning in accordance with Section

307 similar to language that is in Section 409 for the IST zone. For continuity, clarification should also be added to Section 306(e), consistent with Section 306(c)(11) and (d)(7) regarding conditions.

2. The Performance Standards of Section 407 for flexible zoning techniques apply to other floating zones, including IST, Mixed Use (MU-1 and MU-2), and Mixed Employment (MXE) either expressly or, through the master plan requirements. Those standards include building and urban design requirements, street connectivity ratios, Floor Area Ratio (FAR) standards, etc. and generally aim to create an urban environment that is compact and activated. Therefore, the established Performance Standards do not readily lend themselves to addressing the potential impacts of CDI and the form that these facilities take, so it is not recommended that they be applicable. Instead, as the draft proposes, performance standards specific to the use should be created. The draft addresses noise, generators, and fuel tanks but the scope should be further evaluated and expanded to include:
 - a. Architectural design requirements;
 - b. Visual impact evaluations and requirements for associated enhanced buffering and screening requirements from public rights of way and adjacent properties;
 - c. Vibration analysis;
 - d. Standards for sustainable and “green” design.

With regards to the provisions for noise, prior to this submission, draft amendments to Chapter 15, *Offenses- Miscellaneous*, Section 15-21, the “Noise Ordinance” were underway by Staff. The draft amendments should be reviewed in the context of proposed CDI and further information must be provided regarding how the amended ordinance will adequately protect surrounding land uses from any adverse impacts.

3. Measures must be put in place, either within the terms of the LMC or through concurrent amendments to Chapter 25 of the City Code, *Water*, Article IX, *Water and Sewer Allocation and Impact Fees*, to specifically address CDI such that water usage be limited to that which was established by the anticipated use per an annexation agreement for a property or as planned for in the Potomac River Water Supply Agreement (PRWSA).

2/4/2026 Update: Per our conversation at the 2/3/2026 DRC meeting, we have reviewed previous annexations and how they are reflected in updates to the PRWSA Exhibit and tracking of allocation. Going back to the Crum annexation, the following language was included;

Subject to all appropriate laws and administrative requirements, and simultaneously with its annexation into the corporate boundaries of the City, the Property is hereby classified in the City’s MU-1 (Mixed-Use) zone, with development of a mixed-use project (“Project”) comprised of up to 1,060 dwelling units and 1,100,000 s.f. of non-residential uses (the “Maximum Development”) or a development mix of uses allowable under the MU-1 zone and equivalent to the Maximum Development in terms of volume of water usage in accordance with the Potomac River Water Supply Agreement (to be determined through the MU-1 zoning process, including initiation of the process through a master plan review).

In the Toms annexation, potential water and sewer usage was addressed by defining the allowable uses for the zoning (M1) and a maximum square footage; from the annexation resolution;

Uses and Density. In accordance with §4-103(b) of the Land Use Article of the Annotated Code of Maryland, and subject to the approval of Frederick County, Maryland by the granting of “Express Approval”, the application for which shall be jointly pursued and supported by the Owner and the City, upon the effective date of the Annexation Resolution the Property will be zoned M-1, Light Industrial, as stated in the Annexation Resolution and described in the City’s Land Management Code (“LMC”). The parties agree that the uses of the Property, upon and after the effective date of the Annexation Resolution, shall be limited to those uses and densities which may be permitted in the M-1 (Light Industrial) zone as defined in the LMC, which the parties at this time anticipate could include approximately 800,000 square feet of industrial development, more or less, subject to reasonable conditions as may be established in this Annexation Agreement (the “Project”).

Both conditions manage the maximum amount of potential water usage. Our current APFO does not test for water and sewer treatment capacity, only for line size and conveyance capacity. Allocation occurs at time of building permit in accordance with the Water and Sewer Allocation Ordinance in Chapter 25 of the City Code. While the available water and sewer capacity is divided up into a few basic categories, the current allocation ordinance would not necessarily prevent one project from using a large amount of available water within that category. As CDI's are a new and potentially very high-water consumption use being proposed and not contemplated at the time of the development of the PRWSA, the comment is that, absent additional regulations limiting the amount of water usage for CDI projects to either the amount planned for in the PRWSA or in accordance with the governing annexation agreement, there is the potential for one large user to use sufficient water to potentially restrict other planned future growth and development in the City.

4. The anticipated electrical usage and the impacts to the grid, and other customers as well as opportunities to mitigate those impacts must be addressed. Appropriate provisions should be put into the text amendment to address how adverse impacts will be prevented.
5. The potential fiscal benefits of CDI are realized through the valuation of the tangible personal property within CDI and therefore, amendments to Chapter 8, *Finance and Taxation*, Article 2, *Personal Property*, must be considered concurrent with any amendments to the LMC to establish the use.

TECHNICAL COMMENTS

1. Provide additional information about the characteristics of staffing, visitors, and deliveries frequently associated with, and necessary to serve CDI to justify the proposed parking ratios (min and max) and loading requirements. Bicycle parking is generally not required for other industrial/warehousing uses, however, is consistent with policies of the Comprehensive Plan that support multimodal transportation options and reduced vehicle miles travelled.
2. Proposed Section 870(b)(1)(b) -- This provision suggests that subdivision is occurring to create a lot without frontage. In an existing situation where a lot was subdivided before lot frontage requirements were in place, it would be nonconforming and allowed to persist. The LMC contains provisions for lots to be created without frontage on a public street (Section 606(b)(2) as well as modification criteria for subdivision (Section 510). Explain the reasoning for this alternative

approach. The preference would be to maintain continuity with the Code which is the preference for frontage but an allowance on a case-by-case situation to modify that standard.

3. Proposed Section 870(c) –

- a. The proposed minimum and rear setback of 50' is the equivalent to the width of the largest buffer requirement in Section 605, which is a Level IV buffer. As noted above, enhanced landscaping requirements should be established as part of the performance standards for the CDI floating zone, especially along property lines abutting other uses. A discussion about the appropriate screening levels for CDI should occur before minimum setbacks are set to ensure that the standards do not conflict.
- b. This provision indicates that setbacks may be reduced between CDI provided all structures comply with the applicable building codes and that the Planning Commission finds that certain criteria are met. Is the reference to the building codes necessary and appropriate? The Planning Commission will not be privy to a full analysis of building codes at the time they are considering the modification request, and it is inherent that compliance with the building codes is required. Even if the Commission were to grant a modification to a standard that caused a conflict with the building codes, that approval would not supersede or substitute the need for compliance w/ the building codes. This provision does not seem to add value and it's recommended to be deleted.
 - i. In this same section, is the term “open space areas” intended to apply generally not in the context of any regulated requirement for minimum open space?

4. As it relates to fuel storage tanks and generators, the references to compliance with state and federal regulations do not seem to add value or be necessary. It's recommended that those be removed from the various sections and instead, incorporated into a purpose statement for the new CDI section. Provide a summary of what those standards require in the justification statement and copies of those regulations to assist the Commission and Council in understanding those regulatory frameworks.

PC25-626ZTA

ZONING TEXT AMENDMENT, CRITICAL DATA INFRASTRUCTURE

1 DPW PROJECTS: PROJECT INSPECTION, Mike Liston NO COMMENTS

01/07/2026

No Comments

1 ENGINEERING: ENGINEERING, Alice Calhoun COMMENTS 01/20/2026

Manager of Engineering:

1. Please note that the approved water allocation for these lots is 9,039 GPD per the updated PRWSA.

Land Development:

1. No comments.

Stormwater Management:

1. No comments.

Utilities:

1. No comments.

Traffic:

1. No comments.

Surveying:

1. No comments.