Mayor and Council
Work Session
December 1, 2026
Agenda

"The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe, and vibrant neighborhoods."
"The City of Hagerstown shall be a community focused municipality"

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

"Never lose sight of the fact that the most important yardstick of your success will be how you treat other people." – Barbara Bush

4:00 PM WORK SESSION

4:00 PM 1. FY'26 Audit Presentation – *Michelle Hepburn, Chief Financial Officer, Brooke Garver, Accounting and Budget Manager and Chris Lehman with SB and Company*

4:20 PM 2. R. W. Johnson Community Center Update – *Board of Directors*

4:35 PM 3. Hub City 100 Miler for 2027 – *Eric Deike, Public Works Director and Amy Riley, Recreation Supervisor*

4:45 PM 4. Follow Up Discussion: Land Management Code (LMC) Amendments – *Stephen Bockmiller, Deputy Director for Planning and Zoning and Matt Ross, Planner*

5:00 PM 5. Follow-up Discussion: Annexation of Burkholder Lane and McDade Road – *Stephen Bockmiller, Deputy Director for Planning and Zoning and Matt Ross, Planner*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
FY'26 Audit Presentation – *Michelle Hepburn, Chief Financial Officer, Brooke Garver, Accounting and Budget Manager and Chris Lehman with SB and Company*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
12.01.26_Memo_for_FY26_ACFR_Presentation.pdf	Memo: FY'26 Audit Presentation
Hagerstown_Council_Presentation_-_Audit_Results_(1).pdf	PowerPoint: FY'26 Audit Presentation

CITY OF HAGERSTOWN, MARYLAND

Finance & Accounting Department

TO: Mayor & Councilmembers
Scott Nicewarner, City Administrator

FROM: Michelle Hepburn, Chief Financial Officer
Brooke Garver, Accounting & Budget Manager

SUBJECT: FY26 Annual Comprehensive Financial Report

DATE: December 1, 2026

The Finance Department will be joined by our independent auditing firm, SB & Company, LLC to present the City's Annual Comprehensive Financial Report for FY26. The presentation will provide an overview of SB & Company, LLC's comments and recommendations for our FY26 financial statements audit.

The preparation of this report would not have been possible without the dedicated efforts of the entire Finance Department.

The copies of the FY26 Annual Comprehensive Financial Report were distributed in early November and you can find a copy of the FY26 report electronically on the City's website (www.hagerstownmd.org).



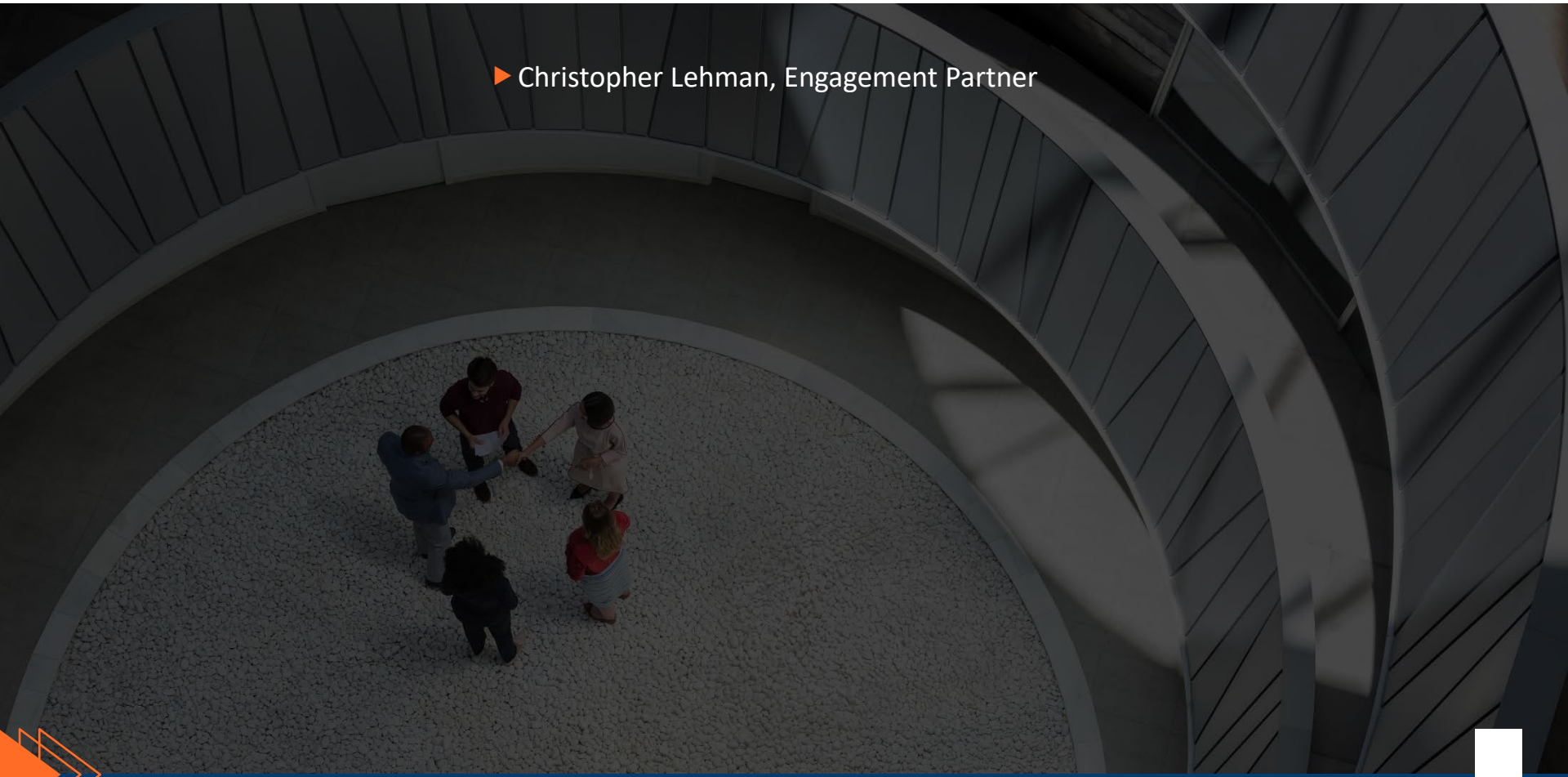
City of Hagerstown

Presentation to those Charged with Governance

December 1, 2026

SB & Company

SBC Leadership Team



- Christopher Lehman, Engagement Partner



Scope of Services

- Audit of the June 30, 2026 financial statements
- Performance of Uniform Guidance Single Audit
- Review of Uniform Financial Report
- Review of Data Collection Form
- Available for year-round consultation



Summary of the Results

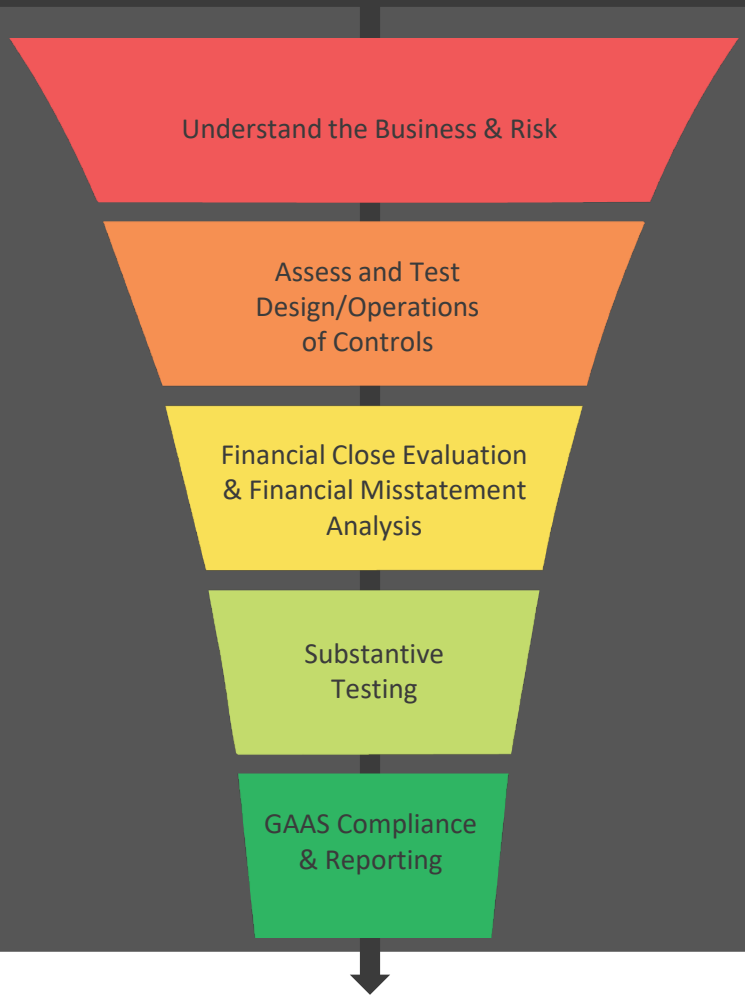
- Issued an unmodified opinion on the financial statements
- No fraud discovered or made aware of
- No material weaknesses identified
- Received full cooperation from management
- No audit journal entries proposed

FORCAM Audit Approach

Focus On Risk, Controls, and Account Misstatement

Audit Goals

- Detect Financial Statement Misstatement Risk
- Detect Error:
  - Accounting Principles
  - Estimate
  - Information Processing
  - Account Balances
  - Footnote Disclosures
- Fraud
- Business Failure
- Risk Mitigation:
  1. Understand
  2. Evaluate
  3. Verify Facts
- Business Improvement Opportunities
- Client Expectations



Assessment of Internal Controls

Assessment of Control Environment

- Control environment
- Risk Assessment Process
- Control Activities
- Information and Communication
- Monitoring

Assessment of Key Processes

- Treasury
- Estimation
- Financial Reporting
- Expenditures
- Payroll
- Revenue
- Fixed Assets

Financial Performance Review

	Governmental Activities		Business-type Activities		Total		Total % Change
	2026	2025	2026	2025	2026	2025	2026-2025
Assets:							
Current assets	$ 42,358,330	$ 41,540,840	$ 56,140,520	$ 61,217,677	$ 98,498,850	$ 102,758,517	-4.1%
Long-term and restricted assets	9,389,001	9,894,496	20,923,619	10,151,008	30,312,620	20,045,504	51.2%
Capital assets, net	130,156,244	129,828,226	218,201,421	213,613,890	348,357,665	343,442,116	1.4%
Total Assets	**181,903,575**	**181,263,562**	**295,265,560**	**284,982,575**	**477,169,135**	**466,246,137**	**2.3%**
Deferred outflows related to OPEB	2,082,636	2,266,793	814,502	865,896	2,897,138	3,132,689	-7.5%
Deferred outflows related to pensions	9,426,884	9,230,619	3,310,174	3,656,787	12,737,058	12,887,406	-1.2%
Total Deferred Outflows	**11,509,520**	**11,497,412**	**4,124,676**	**4,522,683**	**15,634,196**	**16,020,095**	**-2.4%**
Liabilities:							
Long-term liabilities	97,329,527	99,572,929	51,941,093	51,941,720	149,270,620	151,514,649	-1.5%
Other liabilities	13,461,001	13,156,558	8,109,143	12,395,190	21,570,144	25,551,748	-15.6%
Total Liabilities	**110,790,528**	**112,729,487**	**60,050,236**	**64,336,910**	**170,840,764**	**177,066,397**	**-3.5%**
Deferred inflows related to OPEB	1,850,737	584,004	723,808	223,085	2,574,545	807,089	219.0%
Deferred inflows related to pensions	11,470,309	10,295,500	5,303	-	11,475,612	10,295,500	11.5%
Total Deferred Inflows	**13,321,046**	**10,879,504**	**729,111**	**223,085**	**14,050,157**	**11,102,589**	**26.5%**
Net Position:							
Investment in capital assets, net	104,095,151	102,193,979	184,546,764	177,025,994	288,641,915	279,219,973	3.4%
Restricted	5,197,900	4,787,753	-	-	5,197,900	4,787,753	8.6%
Unrestricted	(39,991,530)	(37,829,749)	54,064,125	47,919,269	14,072,595	10,089,520	39.5%
Total Net Position	**$ 69,301,521**	**$ 69,151,983**	**$ 238,610,889**	**$ 224,945,263**	**$ 307,912,410**	**$ 294,097,246**	**4.7%**

Financial Performance Review

	Governmental Activities		Business-type Activities		Total		Total % Change
	2026	2025	2026	2025	2026	2025	2026-2025
Revenues:							
Program Revenues:							
Charges for services	$ 11,919,027	$ 10,324,320	$ 84,218,863	$ 72,637,099	$ 96,137,890	$ 82,961,419	15.9%
Operating grants and contributions	2,595,468	3,026,046	-	-	2,595,468	3,026,046	-14.2%
Capital grants and contributions	2,667,755	9,561,417	7,238,730	9,590,809	9,906,485	19,152,226	-48.3%
General Revenues:							
Property taxes	44,251,264	41,445,640	-	-	44,251,264	41,445,640	6.8%
Income and other taxes	10,763,418	10,532,135	-	-	10,763,418	10,532,135	2.2%
Miscellaneous	2,031,093	2,652,381	1,692,092	1,684,271	3,723,185	4,336,652	-14.1%
Total Revenues	**74,228,025**	**77,541,939**	**93,149,685**	**83,912,179**	**167,377,710**	**161,454,118**	**3.7%**
Expenses:							
Program Expenses:							
General government	17,125,336	11,835,983	-	-	17,125,336	11,835,983	44.7%
Public safety	38,668,242	34,332,197	-	-	38,668,242	34,332,197	12.6%
Highways and streets	3,343,143	3,251,877	-	-	3,343,143	3,251,877	2.8%
Waste collection and disposal	4,596,097	4,556,010	-	-	4,596,097	4,556,010	0.9%
Culture and recreation	4,760,465	4,033,258	-	-	4,760,465	4,033,258	18.0%
Economic and community development	4,350,868	3,930,340	-	-	4,350,868	3,930,340	10.7%
Interest on long-term debt	1,102,686	1,062,776	-	-	1,102,686	1,062,776	3.8%
Utilities and other proprietary funds	-	-	79,615,709	68,726,134	79,615,709	68,726,134	15.8%
Total Expenses	**73,946,837**	**63,002,441**	**79,615,709**	**68,726,134**	**153,562,546**	**131,728,575**	**16.6%**
Excess (deficiency) before transfers	**281,188**	**14,539,498**	**13,533,976**	**15,186,045**	**13,815,164**	**29,725,543**	**-53.5%**
Transfers	(131,650)	59,080	131,650	(59,080)	-	-	0.0%
Change in net position	**149,538**	**14,598,578**	**13,665,626**	**15,126,965**	**13,815,164**	**29,725,543**	**-53.5%**
Net position - beginning	69,151,983	54,553,405	224,945,263	209,818,298	294,097,246	264,371,703	11.2%
Net Position - Ending	**$ 69,301,521**	**$ 69,151,983**	**$ 238,610,889**	**$ 224,945,263**	**$ 307,912,410**	**$ 294,097,246**	**4.7%**

Required Communications

1. Auditor's Responsibilities Under Generally Accepted Auditing Standards (GAAS)

The financial statements are the responsibility of management. Our audit was designed in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards, and provide for reasonable, rather than absolute, assurance that the financial statements are free of material misstatement.

2. Significant Accounting Policies

Management has the responsibility for selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application.

- ***The significant accounting policies used by management are described in the notes to the financial statements and all were appropriate.***

3. Auditor's Judgments About the Quality of Accounting Principles

We discuss our judgments about the quality, not just the acceptability, of accounting principles selected by management, the consistency of their application, and the clarity and completeness of the financial statements, which include related disclosures.

- ***We have reviewed the significant accounting policies adopted and have determined that those policies are acceptable accounting policies.***

4. Audit Adjustments

We are required to inform the oversight body about adjustments arising from the audit (whether recorded or not) that could in our judgment, either individually or in the aggregate, have a significant effect on the entity's financial reporting process. We also are required to inform the association's oversight body about unadjusted audit differences that were determined by management to be, individually and in the aggregate, immaterial.

- ***There were no adjustments identified during the audit process.***

Required Communications

5. Fraud and Illegal Acts

We are required to report to the organization's oversight body any fraud and illegal acts involving senior management and fraud and illegal acts (whether caused by senior management or other employees) that cause a material misstatement of the financial statements.

- ***Our procedures identified no instance of fraud or illegal acts.***

6. Material Weaknesses in Internal Controls

We are required to communicate all significant deficiencies in the organization's systems of internal controls, whether or not they are also material weaknesses.

- ***There were no material weaknesses noted during the audit.***

7. Other Information in Documents Containing Audited Financial Statements

- ***None.***

8. Disagreements with Management on Financial Accounting and Reporting Matters

- ***None.***

9. Serious Difficulties Encountered in Performing the Audit

- ***None.***

10. Major Issues Discussed with Management Prior to Acceptance

- ***None.***

11. Management Representations

- ***We have received written representations from management as part of the completion of the audit.***

12. Consultation with Other Accountants

- ***We are not aware of any consultation with other CPA firms.***

13. Non-attest Services

We are required to report all non-attest services we have performed during the year.

- ***Non-attest services we performed were assistance with preparation of the Single Audit report. Management has designated an individual who possesses suitable skill, knowledge, and/or experience to oversee this service, and has taken responsibility for the service performed.***

Required Communications

14. Independence

As part of our client acceptance process, we go through a process to ensure we are independent of the organization.

- ***We are independent of the organization.***

15. Subsequent Events

We are required to evaluate all subsequent events through our opinion date that may require an adjustment or additional disclosure to the financial statements.

- ***We are not aware of any subsequent events that would require an adjustment or additional disclosure to these financial statements.***

16. Information Technology Responsibility

We obtained an understanding of the design and operations of internal controls, including relevant information technology (IT) internal controls on which we may place reliance.

Our procedures did not address all technology-related risks and were not designed to express an opinion on the effectiveness of technology-related internal controls. Accordingly, our work may not identify all material weaknesses in internal controls or all vulnerabilities related to information technology, including those that could result in a data/cyber breach.

17. Our Responsibility Related to Fraud

We must:

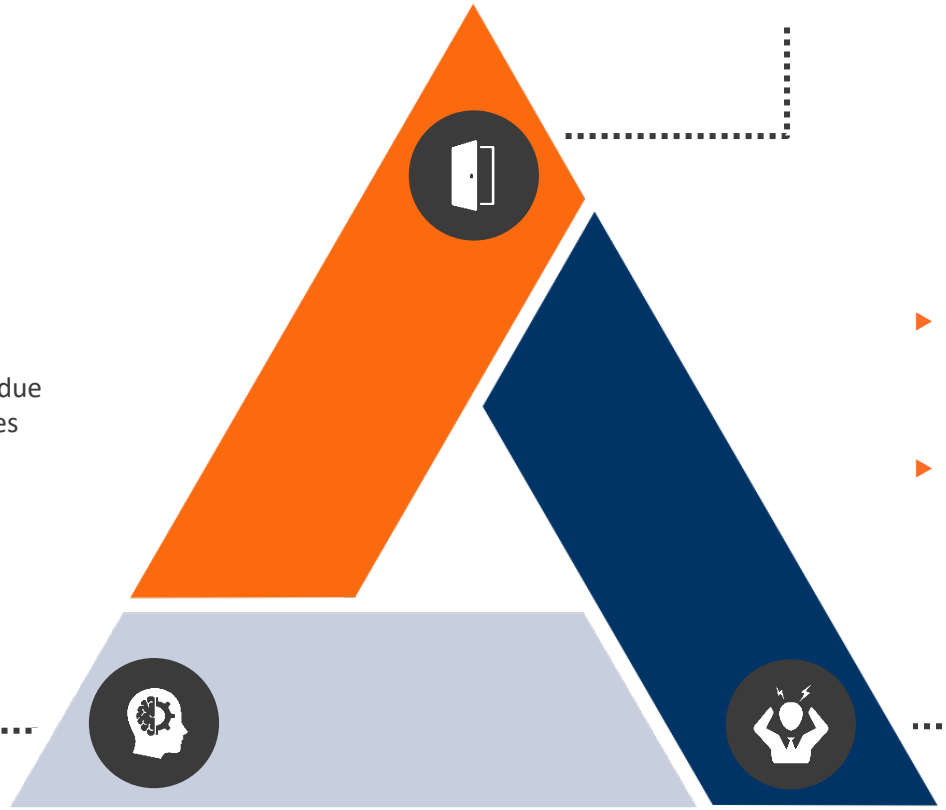
- Plan and perform the audit to obtain reasonable assurance that there is no material misstatement caused by error or fraud;
- Comply with AU-C Section 240: Consideration of Fraud in a Financial Statement Audit;
- Approach all audits with an understanding that fraud could occur in any entity, at any time, by anyone; and
- Perform mandatory procedures required by GAAS and our firm policies.

- ***Examples of Procedures Performed***
  - ***Discuss thoughts and ideas on where the financial statements might be susceptible to material misstatement due to fraud;***
  - ***Understand pressures on the financial statement results;***
  - ***Understand the tone and culture of the organization;***
  - ***Look for unusual or unexpected transactions, relationships, or procedures;***
  - ***Evaluate key processes and controls;***
  - ***Consider information gathered throughout the audit; and***
  - ***Apply professional skepticism***

The Fraud Triangle

OPPORTUNITY

- Generally provided through weaknesses in internal controls
- Tone at the top is important



RATIONALIZATION

- Individuals develop a justification for their fraudulent activities
- Increased rationalization due to minimal salary increases and less personnel

PRESSURE

- Pressure can be imposed due to economic troubles, personal vices, and unrealistic deadlines and performance goals
- There are increased pressures due to the economy and minimal salary growth

Bullseye Service Philosophy

Our Bullseye Philosophy drives our overall objective to deliver **quality** across four parameters:

Product/Deliverable

We generate financial statements and reports that are accurate, comprehensive, and compliant, and delivered in a timely manner.

Client Service

We promise partner attention, effective project management, continuous communication, staff that asks relevant questions, and overall responsiveness and proactive ideas, with minimal disruption.

Sustained Relationship

We build a proactive relationship in which we anticipate your expectations and needs and work with you to resolve issues.

Knowledge Transfer

We provide industry and business insights that help you to make good business decisions and operate more effectively. This also allows us to resolve issues more quickly.



Client Service Team

Contact Information



Christopher Lehman

Engagement Partner

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Mobile: 301-785-7408

clehman@sbandcompany.com

Danae Henry-Lievers

Executive Assistant to Christopher Lehman

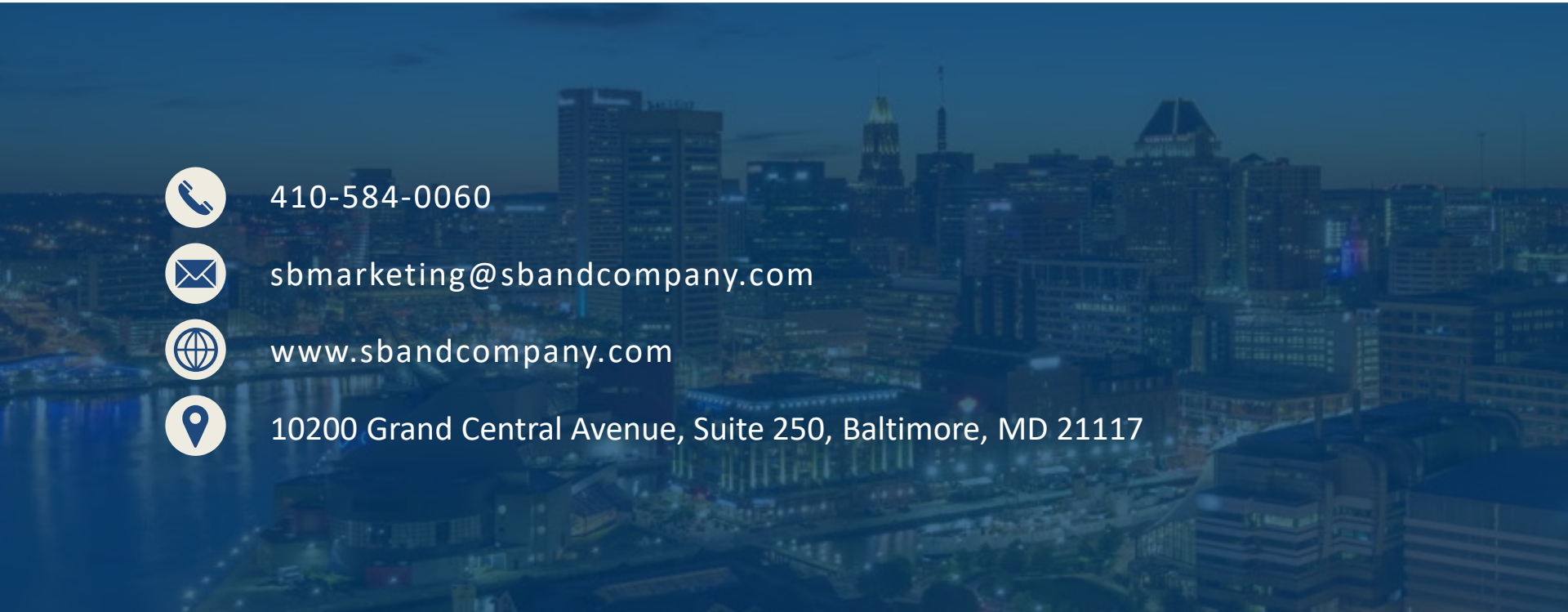
Office: 410-584-0060

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SB & Company

Knowledge, Quality, Client Service

Thank you.



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www.sbandcompany.com

10200 Grand Central Avenue, Suite 250, Baltimore, MD 21117

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
R. W. Johnson Community Center Update – *Board of Directors*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Hub City 100 Miler for 2027 – *Eric Deike, Public Works Director and Amy Riley, Recreation Supervisor*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
Hub_City_100_Miler_Memo.pdf	Memo: Hub City 100 Miler for 2027

CITY OF HAGERSTOWN, MARYLAND

Public Works Department
Parks & Recreation Division
www.hagerstownmd.org/parksandrec

PARKS & RECREATION
CITY OF HAGERSTOWN

November 18, 2026

TO: Scott Nicewarner, City Administrator

FROM: Amy Riley, Recreation Supervisor AMR

SUBJECT: 2027 Hub City 100 Miler

Recreation staff is excited to welcome another year of the Hub City 100 Miler, a popular community wellness initiative that encourages residents to start the new year with healthy habits and an active lifestyle. With nearly 1,000 participants registering annually, the program continues to bring our community together through fitness, motivation, and friendly encouragement.

The 2027 challenge officially begins January 8, inviting participants to complete 100 miles in 100 days. Designed for all ages and fitness levels, the program offers a flexible approach to physical activity. Participants log their daily miles by walking, running, or biking, or earn credit by completing 20 minutes of movement through activities such as yoga, ice skating, or even shoveling a neighbor's driveway.

To celebrate the start of the challenge, registered participants are invited to the Kickoff Event on Friday, January 8, from 4:00 p.m. to 6:00 p.m. at the Hagerstown Field House. This event provides an opportunity for participants to come together, get motivated, and complete their first official mile.

Throughout the 100 days, registered "100 Milers" will receive weekly e-newsletters featuring encouragement, wellness tips, and opportunities to stay active and connected. Participants will also have chances to win weekly prizes, including fitness passes, accessories, gift cards, and adventure passes. The challenge concludes on April 17 with random drawings for grand prizes, including fitness bikes and other additional prizes to be announced.

Registration is open and Recreation staff looks forward to building on the program's continued success by encouraging even more individuals and families to get moving in 2027. The Hub City 100 Miler is a reminder that small, consistent steps can lead to meaningful improvements in health and wellness. Let's make 2027 another year of getting fit, staying healthy, and moving together!

Attachments; *Fall/Winter Parks & Rec Guide featuring the 100 Miler on the back cover*

Cc: *Eric Deike*

Public Works Department
51 West Memorial Blvd.
Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 178

Parks and Recreation Division
351 North Cleveland Ave.
Hagerstown, MD 21740
Ext. 169

Parking Division
25 East Franklin St.
Hagerstown, MD 21740
Ext. 479

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Follow Up Discussion: Land Management Code (LMC) Amendments – *Stephen Bockmiller, Deputy Director for Planning and Zoning and Matt Ross, Planner*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
2026_1201_WS_Follow_Up_to_Discussion_of_LMC_Amendments._-_Data_Centers.pdf	Follow Up to Discussion of LMC Amendments - Data Center Development

MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Stephen R. Bockmiller, AICP, Deputy Director for Planning and Zoning Administration
Matthew Ross, Planner I

DATE: December 1, 2026

SUBJECT: Follow Up to Discussion of Land Management Code Changes related to Data Center Development

Staff will attend the December 1, 2026 Work Session for a followup discussion from the November 17, 2026 Work Session discussion of possible Land Management Code amendments and/or policy changes to address the unqiue potential impacts of data center development.

Attached are the materials from the November 17, 2026 Work Session as reference for the continued discussion.

Attachments:

1. DRAFT Outline of Possible Changes
2. Conditions and Regulations Comparison – Other Jurisdications

Copy: Jill Thompson, Director of Planning and Economic Development
Doug Reaser, Economic Development Manager
Ann Rotz, City Attorney
Jason Morton, City Attorney
Kevin Best, Special Counsel

DRAFT – FOR DISCUSSION PURPOSES ONLY.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2026-XX	**Is this a new issue or one previously discussed?**	Preliminary discussion
Version: 1	**Is this new text proposed since last discussion in need of initial review?**	Preliminary discussion
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Define "data center". Establish zoning and site location parameters for data centers that are approximately 10 megawatt or larger. Establish design requirements for data centers.		
Justification: Large data center uses present unique potential for impacts to vicinal residential and other sensitive properties. As such, additional locational and design requirements are necessary to protect the public interest.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in red. Staff direction is in blue.

Article 3: Definitions

DATA CENTER – A building or collection of buildings on the same and/or adjacent properties with a total footprint of 50,000 square feet or more used to house a server farm and its associated activities, providing large scale processing power, computing tasks, data storage and network services. The building or buildings may be new construction or existing buildings retrofitted for the use. (*Zoning)*

Article 4: Zoning

Section Z.2 (Use Chart)

Use	IR	IG	I-MU
Data Centers, in buildings located a minimum of 500 feet from any residential zoning district in the City or in the County. Associated generators, substations and external cooling structures and equipment shall also comply with the same required 500-foot setback.	P	P	P

Building the distance from all City and County residential zoning districts into the use chart insulates the setback from consideration for a variance. It becomes part of the description of the use, and Maryland law prohibits "use variances". It would be outside of the purview of the Board of Zoning Appeals to consider a variance to reduce this distance. The description of "internet service providers, web search portals and data processing services (518)", will remain unchanged. Server farms that are under 50,000 square feet would continue to be included in this category and would continue to be permitted in the eleven zoning districts where ISPs and data processing services are permitted.

Article 4: Zoning
Section O.4

4. Required Number of Parking Spaces.

Use	Required Spaces
Data Center	1.2 parking space per employee on largest shift, and one loading dock bay. Additional land will be mass graded at development to provide parking expansion area for future adaptive reuse of the building that will, when enlarged accommodate future parking of 1 space per 2,000 square feet of gross floor area.

The standard of 1.2 spaces allows for parking for all employees on the largest shift and provides a nominal amount of additional spaces for visitors and to accommodate shift change. This standard is consistent with recent parking text amendments that allowed for high-tech warehouses with fewer than typical employees. This requirement is lower than most of the typical uses permitted in industrial districts because data centers employ fewer people than other uses. The pre-graded expansion area demonstrates that should the building be used for another use in the future, the site can accommodate the additional parking demands of the new use.

Article 5: Subdivision and Land Development
Section I.4

I.4 – Landscaping Plan and Parking Area Design Requirements

Subsection j and j.3 (landscaped buffers) – No change proposed. Property line must have a 60 foot wide buffer along the property line when adjacent to residential, and 25 feet when adjacent to mixed use and commercial zones. Buffers required when bordering a commercial or residential zone as follows:

Trees per 100 linear feet of buffer yard: 6 canopy and 10 evergreen and/or understory trees
Shrubs per 100 feet of linear buffer yard: 15 shrubs.

New Section I.4.j.16:

16. Design Standards for Data Centers.

    a. The entirety of the property will be fenced at a minimum height of 8 feet and maximum height of 10 feet, using ornamental vertical picket black metal fencing or black coated chain link. The fence will be located inside of the required buffer from

adjoining districts (60 feet from residential, 25 feet from commercial or mixed use districts).

b. External back up generators and cooling equipment shall be screened by masonry walls and/or berms at least 8 feet in height. The Planning Commission may require the walls or berms to be higher if the equipment is taller and increasing the height is necessary to attenuate noise generated by the equipment.

c. Substations shall be buffered on all sides by a heavy columnar evergreen tree buffer in a minimum of two staggered rows.

d. Roof-mounted generators or cooling systems shall be screened via the use of parapet walls designed with the architecture of the building.

e. There shall be no on-site ongoing power generation. Other than emergency back up generators, the data center will be powered by the electric grid. (Note: parallel amendment to the Noise Ordinance is advised to limit the hours of testing of generators and excluding the cooling systems associated with data centers from the HVAC exception in that ordinance).

f. No site plan shall be executed with the approval of a building permit unless a decommissioning plan and bonding for potential remediation of generating equipment and fuel in the building is provided to the satisfaction of the City Engineer and approved by the Mayor and City Council.

There are additional architectural requirements for large buildings and others for all commercial buildings already in place that a data center would be required to meet.

Draft date: 11/17/26

Follow Up to Public Hearing A-2026-02 - Burkholder Lane Acquisitions LLC and McDade Road Acquisitions LLC

Conditions and Regulations Comparison - Other Jurisdictions

	Topic/Jurisdiction	Hagerstown	Birmingham, AL	Loudoun County, VA	Franklin County, PA	Washington County, MD	Lancaster, PA
	Adoption Notes:	Staff Comments	Adopted June, 2026	Updates in progress.	Adopted May, 2026	In discussions	Adopted July, 2026
	Utilities						
1	**Energy use and source (D.3)**	**Possible Annexation Condition:** Requirements/limitations on on-site electric generation and alternative energy sources.	1. Identify demand, infrastructure improvements and confirmation sufficient power can be provided from utility. 2. On site power generation by any means, except solar and/or fuel cells as a primary, parallel or routine source of electrical power is strictly prohibited. 3. Generators using fossil fuels are permitted for back up only. 4. On-site battery storage charged via the grid for back up is permitted.	Not specifically addressed.	1. Demonstrate adequate capacity available on the applicable supply lines and substations, equipment sufficiently sized and can safely accommodate the use and not impact surrounding region and will not cause electrical interference or fluctuations in line voltage. 2. On-site generation using natural gas, renewable fuels or other clean sources is permissible. 3. On site generators shall be "Tier 4 or greater" and subject to strict noise and emissions standards.	Energy plan that utilizes alternate, self-generating power, and returns power to the grid to prevent shifting costs onto everyday rate payers (see Governor's executive order). Potentially prohibit natural gas turbines. Backup energy sources should consider prohibition of lithium-ion batteries	Annual report required "Energy management plan" required with site plan. Good faith efforts to maximize renewable power. On site generation, verifiable power purchase agreements or combination thereof.
2	**Water (D.6)**	City controls the amount of water that will be allocated to the use. **Possible Annexation Condition:** When the end user is identified, understanding of cooling method and approval of final water allocation.	1. Provide water demand data, description of the cooling system and water sources, water reuse and efficiency measures and demonstrate adequate capacity at site plan. 2. Closed loop cooling required. 3. Potable water limited to initial charge, emergencies and other limited circumstances. 4. System flushing shall be pre-treated.	Not addressed in zoning code.	Submit documentation that the water authority certifies it will provide the water needed.	Water plan that utilizes water recycling, incorporates drought planning and utilizes geothermal or alternative cooling technologies	Water utilization report required with site plan. Capacity to serve would appear to be left to the site plan process.
	Community Impact						
3	**Noise (D.4, D.8)**	Administer existing noise ordinance. Maximum level in residential area 65 dBA daytime, 55 dBA nighttime. No study required. **Possible City Policy Change:** Amend Noise Ordinance to exclude data centers from the HVAC exception.	Provide description of noise mitigation measures for back up power generators. Provide pre construction and post construction noise study.	Subject to existing County noise standards. Noise generation (HVAC, generators) must be screened on all four sides with acoustical barrier, including roof or ground mounting.	Sets requirements for noise at the boundary line not to exceed 57 dBA "community noise equivalent".	Noice study evaluates pre and post construction noise. Limit noise to a maximum of 50 dBA at the property line and reduction of dBC tonal/narrow band noise to background noise levels.	Pre construction noise mitigation plan, post construction noise study and prohibits noise exceeding pre-construction ambient levels
4	**Lighting (D.2, D.9)**	Lighting of all uses is subject to site plan requirements. Photometric plan is required at site plan.	Specific limits on lighting set forth in ordinance.	Photometric plan required with site plan and regulated by existing code.	Not separately addressed. Presumably held to same standard as development of similar uses.	Nothing published yet. Presumably held to same standard as development of similar uses.	Not separately addressed. Presumably held to same standard as development of similar uses.

	Topic/Jurisdiction	Hagerstown	Birmingham, AL	Loudoun County, VA	Franklin County, PA	Washington County, MD	Lancaster, PA
	Adoption Notes:	Staff Comments	Adopted June, 2026	Updates in progress.	Adopted May, 2026	In discussions	Adopted July, 2026
5	**Generator testing hours and other issues**	Considering limiting testing to business hours	1. Describe generator type, fuel source, capacity, testing and maintenance schedule including hours of operation and description of noise mitigation measures. 2. Routine testing to be done during daytime hours and not used for routine grid support or non emergencies.	Testing limited to certain hours which have different standards depending on time of the year (two periods). Generators limited to back up or emergency only.	Not addressed.	Nothing published yet.	Prohibited on Sundays and Federal holidays
6	**Environmental (D.10, D.11)**	Maryland has strict SWM regulations, site plan regulations and forest conservation requirements applicable to all development which would be administered at site plan.	Compliance with stormwater management regulations and other site plan requirements imposed on other development.	Not specifically addressed. Presumably development of a data center would have to comply with the same environmental regulations as any other permitted use.	Requires "environmental impact assessment" but does not state how it is evaluated or used. Encourages Green Building Techniques and LEED certification of data center buildings. Requires riparian buffers.	Nothing published yet.	Not specifically addressed. Presumably development of a data center would be held to the same regulatory requirements of all other uses developed on the site.
7	**Air quality**	All industrial uses must comply with Article 4, Section K.21 (Industrial Performance Standards).	Not specifically addressed.	Not specifically addressed.	Cannot be perceptible beyond property lines (section on "negative impacts")	Study of air quality and environmental impacts.	Annual report required.
	Site Design						
8	**Zoning - Setbacks (D.1, D.4)**	Current 150 foot building setback from residential districts. **Consider:** Require data center buildings to be a minimum 500 or 1,000 feet from any city or county residential zoning district. This will greatly restrict location within the city.	500 foot setback from residential and "urban neighborhood" districts for all buildings and equipment.	200 foot setback from existing or planned residential use	Requires buildings to be a minimum of 1000 feet from all property lines. Substation at least 200 feet from property lines with year round landscaping.	Consider requiring 1,000 foot setback from existing and future homes.	Buildings set back at least 200 feet from residential properties, community use properties and residential zoning districts.
9	**Zoning - Height (D.2)**	Height limitations are codified in the zoning ordinance for all buildings.	Not addressed. Presumably held to same as other buildings.	Required height "step back" if within 400 feet of residential uses.	Limited to 35 feet. Waivers considered. Does not explain who approves waiver.	Nothing published yet. Presumably held to same standard as similar uses.	Not specifically addressed. Presumably held to same as other buildings in district.
10	**Zoning - Location (by right or special exception)**	**Consider:** Limit to the three industrial districts by right, subject to distance requirements. **Staff recommends against allowing a special exception in order to maintain consistent expectations and avoid legally questionable subjective approval processes.**	Creates three levels of data center, Largest are permitted in zoning districts roughly comparable to Hagerstown's CG, IR, I-MU and IG Zoning Districts, and certain mixed use districts - subject to performance conditions.	Permitted by special exception in the IP (Industrial Park), GI (General Industry) and Mixed Use Higher Intensity (MR-HI) districts.	Not a zoning regulation per se. County does not regulate zoning. Does not supercede municipality's zoning authority when the municipality has a zoning ordinance.	Restrict to the PI (Planned Industrial) District by special exception. Staff note: The properties under consideration for annexation are in this Zoning District. Refusal to annex the properties may not preclude presence of a data center.	Permitted by special exception in one zoning district (SM – Suburban Manufacturing), which is 3% of jurisdiction.
11	**Zoning - Other**	**Consider:** 1. Defining as over a certain size. 50,000 gsf floor area is suggested to regulate data centers of 10 MW or larger. 2. Establish specific parking requirement.	5 acre minimum aggregate lot area requirement.		Sets parking requirements. Requires at least one loading bay.		Ground mounted equipment shall be 300 feet from residential properties.

	Topic/Jurisdiction	Hagerstown	Birmingham, AL	Loudoun County, VA	Franklin County, PA	Washington County, MD	Lancaster, PA
	Adoption Notes:	Staff Comments	Adopted June, 2026	Updates in progress.	Adopted May, 2026	In discussions	Adopted July, 2026
12	**Architecture**	Existing LMC requires buildings to be constructed of low reflective material in earthtone colors. **Consider:** require data centers be constructed to appear as office buildings.	Roof mounted equipment screened by parapets or other architectural features.	Substantial architectural standards are in effect.	Buildings shall be of colors that are low-reflective, subtle or earth tone. Roof equipment screened by parapet.	Nothing published yet.	Requires parapet walls to screen rooftop equipment.
13	**Fencing and Screening (D.12)**	Berms and buffers as applied in LMC mostly used for aesthetics and limited noise attenuation. More substantial features should be required for cooling systems and back up generators. **Possible City Policy Change: A**mendments to the LMC and/or **Possible Annexation Condition:** Requiring significant berms and buffers and parapets masking rooftop mechanical systems.	Roof mounted equipment screed with parapets or other architectural elements. Ground mounted equipment screened from public view through walls, fencing and/or landscaping buffers.	Subject to existing County noise standards. Noise generation (HVAC, generators) must be screened on all four sides with acoustical barrier, including roof or ground mounting. Compliance with existing code for buffers is required. Retention of existing vegetation encouraged. Main building must be between residential and mechanical equipment.	Perimeter shall be surrounded by black chain link security fencing a minimum of 8 feet in height and “shall be of high-quality design and materials”. Service areas screened from view. Ground mounted equipment prohibited in any setback. Roof mounted equipment screened by parapet or penthouse. Widths of buffer yards vary depending on size of facility.	Require installation of noise barriers such as trees, berms, etc.	8 to 10 foot fencing of site perimeter required. 100 foot wide buffer along roads 12 foot tall minimum screening required for ground mounted equipment Rooftop equipment screened by parapet.
	Process						
14	**Community engagement**	Could be made a condition of the annexation.	Written notification of proposal required to be provided to all property owners within a 500 foot radius of the property.	Not specifically addressed.	Does not appear to include a community engagement component.	Require special exception from Board of Zoning Appeals to allow public input.	Requires developer to have community engagement meeting prior to planning commission review and sets standards for the meeting.
15	**Decommissioning and vacancy (D.13)**	The City has a vacant buildings ordinance which would apply to any building regardless of use. **Possible Annexation Condition:** Require a decommissioning plan and bonding.	Not specifically addressed.	Not specifically addressed.	Requires decommissioning plan and bonding with detailed requirements.	Nothing published yet.	Required, including timelines, financial security, structure removal, hazardous materials disposal, soil stabilization and site restoration.
16	**Fees (D.14)**	Site plan and other reviews will require payment of review fees. County imposes a building excise tax and appears to be considering a separate excise tax. **Possible Annexation Condition:** Developer pays all costs for required public improvements.	Not specifically addressed.	Not specifically addressed.	Applicant pays all applicable fees.	"Development of an appropriate excise tax or impact fee."	Not specifically addressed.
	Comments						
17	**City staff comments on sampled regulations**		These regulations are for data centers that are 200,000 square feet or larger. Two tiers of lesser regulations apply to smaller data centers.	Regulations focus heavily on site location, setbacks when adjacent to residential and architectural control.	Individual elements are of value to review, but the ordinance as a whole serves a much different environment and governmental framework than the city operates within.		Focused and concise.

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Topic:
Follow-up Discussion: Annexation of Burkholder Lane and McDade Road – *for Planning and Zoning and Matt Ross, Planner*

Stephen Bockmiller, Deputy Director

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
2026_1201_WS_Third_Follow_Up_to_Public_Hearing_Burkholder_McDade_Annexation_Discussion.pdf	Follow Up to Public Hearing - Burkholder/McDade Annexation Discussion

MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Stephen R. Bockmiller, AICP, Deputy Director for Planning and Zoning Administration
Matthew Ross, Planner I

DATE: December 1, 2026

SUBJECT: Follow Up to Public Hearing A-2026-02 – Burkholder Lane Acquisitions LLC and McDade Road Acquisitions LLC – THIRD FOLLOW UP MEETING

Staff will attend the December 1, 2026 Work Session for a followup discussion from the November 17, 2026 Work Session.

One of the key next tasks of the Mayor and City Council is to outline the terms and conditions of the Annexation Agreement. Attached is a draft outline of conditions for the annexation agreement for discussion purposes.

When the Mayor and City Council are ready to move to vote on the annexation resolution, the terms and conditions will be incorportated into the resolution, and it will be placed on a Regular Session agenda. The vote on the annexation remains unscheduled.

Additionally, attached is a handout providing additonal information the Mayor and City Council requested regarding recently implemented Maryland state legislation:

1. Maryland Utility Relief Act of 2026
2. Maryland Executive Order .01.01.2026.16

BACKGROUND:
Burkholder Lane Acquisitions, LLC and McDade Road Acquisitions, LLC initiated annexation of 171.88 acres of land west of McDade Road by submitting a petition for annexation. At the August 25, 2026 Mayor and City Council meeting, the petition was accepted and the Mayor and City Council introduced the resolution an approved the annexation plan. As required by State Law, there were four published notices advertising the public hearing and the annexation plan was provided to the appropriate County, regional and State planning agencies at least 30 days prior to the hearing. Both the State and County acknowledged that the requested zoning of I-MU (Industrial Mixed Use) is not substantially different from the current PI (Planned Industrial) zoning. Therefore, express approval of the zoning by the County is not required.

Copy: Jill Thompson, Director of Planning and Economic Development
Doug Reaser, Economic Development Manager
Ann Rotz, City Attorney

Jason Morton, City Attorney
Kevin Best, Special Counsel

Attachments:

1. Outline of Conditions for Annexation Agreement
2. Maryland State Legislation – Utility Relief Act of 2026 and Executive Order .01.01.2026.16
3. Topics and Analysis Chart – 11/10/2026 and 11/17/2026 Work Sessions
4. Conditions and Regulations Comparison – Other Jurisdications – 11/17/2026 Work Session

DRAFT December 1st, 2026

POTENTIAL ANNEXATION CONDITIONS:

Staff has identified several potential conditions of annexation for the Mayor and City Council's consideration. These conditions address general responsibilities associated with development of the property, as well as additional provisions that may be appropriate if the property is developed as a data center. The following conditions are presented for discussion and may be revised or supplemented based on Council's direction.

1. ***Public Improvements and Infrastructure Costs*:** The property owner and any subsequent developer shall be responsible for all costs associated with public improvements and infrastructure improvements necessitated by or directly attributable to the development, including but not limited to roadway construction, roadway improvements, traffic control infrastructure, utility extensions, stormwater management facilities, and other necessary public infrastructure.

2. ***Additional Conditions Applicable if the Proposed Development is a Data Center:***
    a. ***Maximum Size of Facility:*** Any project greater than 1 million square feet on the site will be required to obtain review and approval by the Mayor and City Council of the infrastructure and community impacts.

    b. ***Electrical Power Supply and On-Site Generation*:** The property owner and any subsequent developer or operator of the property shall be required to utilize grid-delivered electricity as the primary source of electrical power for any proposed facility. Any proposed on-site electrical generation, including but not limited to natural gas, biogas, hydrogen, small nuclear reactors (SMRs), or other alternative energy sources, shall be prohibited OR shall be subject to review and approval by the Mayor and City Council prior to installation or operation. There shall be no ongoing on-site power generation. Other than emergency back up generators, the data center will be powered by the electric grid.

    c. ***Cooling Systems and Water Consumption*:** The property owner and any subsequent developer shall disclose the proposed cooling technology and methodology to be utilized by the facility upon identification of the intended end user or operator. Such disclosure shall include anticipated water consumption, sources of water supply, and projected daily water demand. Any proposed allocation of water exceeding a daily consumption threshold of XXX,XXX

gallons (to be determined by council at a later date) shall require the approval of the Mayor and City Council prior to the allocation or utilization of such water.

d. ***Noise Mitigation:*** User is required to limit sound to 55 dBa at the property line, both day and night. A sound study will be required as part of the site plan review process. The end user will be ineligible for the air conditioning and heat pump exception found in Chapter 155 of the City Code (Noise Ordinance).

e. ***Forestation:*** Forestation or reforestation requirements must be met on-site and not by fee in lieu and not by securing offsite easements.

f. ***Community Engagement and Public Participation*****:** The property owner and any subsequent developer shall be required to undertake community engagement and public outreach activities in accordance with a community engagement plan approved by the Mayor and City Council. Such plan shall address the disclosure of the facility's confirmed use, operational characteristics, and anticipated impacts at the time an end user or operator is identified and/or before a site plan is submitted.

g. ***Decommissioning, Hazardous Materials Removal, and Financial Assurance*****:** The property owner or operator shall submit a comprehensive decommissioning and site restoration plan for review and approval by the City prior to the issuance of a building permit. The plan shall establish procedures for the safe removal, handling, transportation, and lawful disposal of all equipment, fuels, batteries and hazardous materials and other potentially harmful substances associated with facility operations. The property owner or operator shall provide financial security, in a form and amount acceptable to the City, including but not limited to a surety bond, to guarantee the completion of required decommissioning, removal, disposal, and site restoration activities in the event of facility abandonement, cessation of operations, or failure to comply with the approved decommissioning plan.

h. ***Site Development Requirements:*** Development of the site for a data center use shall be subject to the following design standards:

i. Buildings, associated generators, substations and external cooling structures and equipment shall comply with a 500-foot setback from any city or county residential zoning district.

ii. Parking shall be provided at a ratio of 1.2 parking space per employee on largest shift, and one loading dock bay. Additional land will be mass graded at development to provide parking expansion area for future adaptive reuse of the building or buildings that will accommodate future parking of 1 space per 2,000 square feet of gross floor area, when the use is changed.

iii. The entirety of the property will be fenced at a minimum height of 8 feet and maximum height of 10 feet, using ornamental vertical picket black metal fencing or black coated chain link. The fence will be located inside of the required buffer from adjoining districts (60 feet from residential, 25 feet from commercial or mixed use districts).

iv. External back up generators and cooling equipment shall be screened by masonry walls and/or berms at least 8 feet in height. The Planning Commission may require the walls or berms to be higher if the equipment is taller and increasing the height is necessary to attenuate noise generated by the equipment.

v. Substations shall be buffered on all sides by a heavy columnar evergreen tree buffer in a minimum of two staggered rows.

vi. Roof-mounted generators or cooling systems shall be screened via the use of parapet walls designed with the architecture of the building.

i. ***Compliance with Adopted Regulations:*** Future adopted Land Management Code changes will take precedence if more restrictive and development is not yet vested in part or in whole.

MARYLAND STATE LEGISLATION - RECENTLY IMPLEMENTED

Staff came away from the November 17 meeting with direction to provide the Mayor and City Council with an overview of recent State legislation and executive actions related to data center development, as well as to continue discussion of the proposed annexation and potential conditions for consideration. Accordingly, this section summarizes the recent state legislation, followed by potential conditions of annexation that may be applied to the Annexation Resolution of this property.

Utility RELIEF Act of 2026

The Maryland General Assembly enacted the Utility RELIEF (Reducing Energy Load Inflation for Everyday Families) Act of 2026 (HB 1532, Chapter 353) to address rising energy costs and protect residential electric customers. The Act requires utilities to establish specific rate schedules for qualifying large-load customers, including data centers, making them responsible for the costs of necessary electric infrastructure and increased costs attributable to their consumption. It also establishes minimum billing requirements, long-term contractual commitments, exit fees, and financial guarantees to protect residential ratepayers from costs associated with project delays, cancellations, or reduced electricity demand.

Executive Order 01.01.2026.16 – Responsible Data Center Development in Maryland

On September 23, 2026, Governor Wes Moore issued Executive Order 01.01.2026.16, establishing the Maryland Data Center Accountability Task Force and the Maryland Data Center Framework to create a statewide process for evaluating proposed data center developments and coordinating State agency review.

The Framework establishes five principles for evaluating proposals: (1) Ratepayer and Grid Protection; (2) Economic Benefit for Marylanders; (3) Community Voice; (4) Environmental Protection; and (5) Transparency and Accountability. Evaluations consider factors such as electricity demand and infrastructure costs, employment and economic benefits, community engagement, water consumption and cooling methods, air quality, backup generators, stormwater management, site selection, and decommissioning.

The Task Force is responsible for reviewing proposals and issuing written determinations of "Aligned," "Conditionally Aligned," or "Not Aligned," as well as maintaining a public dashboard of project information and State review status. The Executive Order also recognizes the role of local governments in evaluating data center proposals, including consideration of local plans and zoning, community engagement, and Community Benefits Agreements, and directs the Task Force to provide support to local governments.

Together, these legislative and executive actions establish a State-level framework addressing key impacts of data center development, including energy costs, infrastructure, environmental protection, and community considerations. This framework provides context for the Mayor and City Council's consideration of the proposed annexation to ensure the City's and surrounding community's interests are addressed.

Follow Up to Public Hearing A-2026-02 – Burkholder Road Acquisitions LLC and McDade Road Acquisitions LLC				
Topics and Analysis Chart				
Annexation				
	Topic			
A.1	Growth Management	City's Water and Wastewater Policy requires developers seeking the City's water service to annex into the City or enter into a preannexation agreement that commits to future inclusion in the City. The location of the properties subject to this petition require annexation upon request for City water service.		
A.2	City Design Standards	If annexed, development of the site would be completed in accordance with the City's design standards, which sets higher design expectations than the County's development regulations.		
A.3	Assigned Industrial Mixed-Use (I-MU) Zoning	The development of this site would be limited to those uses permitted in the I-MU zoning district per Section Z.2 of the Zoning Ordinance (Article 4, Land Management Code).		
A.4	Loss of farmland, environmental habitat, impact on migratory bird populations and community character	Washington County's adopted policies direct industrial growth to this area. Concentrating development here accommodates needed growth while maximizing countywide benefits and protecting other areas from its impacts, thus exemplifying Smart Growth principles. The area in question has been planned by the County for industrial development for many years. The 2.6 square mile PI-zoned area will develop for industrial uses whether annexed into the City or not.		
A.5	Empty warehouses	Market conditions vs. zoning influences how quickly properties fill. The vast majority of the recently constructed warehouse space is occupied or is soon to be occupied, with only about 500,000 square feet yet to be committed to tenants.		
A.6	Economic impact	According to the petitioner's information, annexation of the property will generate for the city between $1.3 million and $7 million per year in real property tax revenue, depending on the end use.		
A.7	Activating pre-annexation agreements	There are nearby commercial properties with preannexation agreements. Bringing those properties into the City would result in approximately $3 million per year in real property tax revenue. Failure to approve this annexation will make it difficult to secure routes by which the City could annex the nearby sites.		
Data Center				
	Topic	City, State, or Federal Regulations	Site limitations/Site Plan Review	Staff Comment
Conditions Restricted by the Site				
D.1	Setbacks	The I-MU zoning district requires a 150 foot (.028 mile) building setback from residential zoning districts.	Per the petitioner's presentation, the development boundary line is nearly .5 mile from the nearest residential neighborhood.	Based on current industry trends regarding regulating data centers, a data center on this property would far more than comply with the most aggressive setback requirements adopted by other jurisdictions separating them from residential zoning districts.

	Topic	City, State, or Federal Regulations	Site limitations/Site Plan Review	Staff Comment
D.2	Visual impact	Land Management Code, Article 5, requires commercial buildings to be constructed of low reflective material in earth tone colors. Any building built here would be required to comply with this provision regardless of use and this would be evaluated at site plan review.	The site is near the center of a 2.6-square-mile planned industrial park. The proposed buildings are expected to have minimal visual impact due to their distance from surrounding primary roads and residential areas and the topography of the site.	
D.3	On-Site Electric Generation via Natural Gas Turbines/Generators	The City's ordinances do not prohibit the use of natural gas as a fuel source.	This site is not located near any natural gas lines of sufficient size and capacity to serve a data center use. Natural gas extension to the site for generation is cost prohibitive and unlikely.	**Possible Annexation Condition:** Requirements/limitations to on-site electric generation and alternative energy sources.
D.4	Protection of property values	One of the purposes of land development regulations is to ensure compatibility of uses as they develop in order to protect the general quality of life in the area, which includes protecting property values.		The distance offered in this situation would make this site the best possible location in or around the City for developing any sort of industrial use with maximum distance from vicinal residential areas.
	Conditions Restricted by Current City, State, or Federal Regulations			
D.5	Executive Order 01.01.2026.16 - "Responsible Data Center Development in Maryland"	Governor Wes Moore recently issued an Executive Order addressing data center development. This Executive Order outlines several criteria upon which new data center development will be evaluated at the State level.		Compliance will be required.
D.6	Consumption of water	Provision of water is subject to the City's Water and Wastewater Policy.		**Possible Annexation Condition:** When the end user is identified, understanding of cooling method and approval of final water allocation.
D.7	Protections for Electric Ratepayers	The State of Maryland recently adopted legislation (the Utility RELIEF Act of 2026) that requires the cost of system upgrades and provision of electric service for data centers to be cost-neutral to residential rate payers.		The legislation protects rate payer and requires the developer to bear the full cost.
D.8	Noise	Chapter 155 of the City Code (Noise Ordinance) limits sound to 75 dBA at the property line for industrial areas and 65 (day) and 55 (night) for residential receiving areas.	An applicant for construction of a data center may be required to address this issue through notes of compliance and a sound study during the site plan stage.	**Possible City Policy Change:** An amendment to the the Noise Ordinance may be necessary to exclude data centers from the air conditioning and heat pump exception.

	Topic	City, State, or Federal Regulations	Site limitations/Site Plan Review	Staff Comment
D.9	Light pollution	The Land Management Code contains regulations regarding exterior lighting of buildings and parking lots that apply to all uses. Additionally, development shall comply with the Industrial Performance Standards outlined in Section K of the Zoning Ordinance.	These issues will be evaluated and the regulations applied during the review and approval of a site plan.	Light standards are limited to 20 feet in height and building mounted lighting is to be directed downward from the cornice.
		Addressed During Site Plan Guidelines		
D.10	Protection of Karst geology	The State requires stormwater management for all site plans, which includes additional precautions in the design and review of plans when the development site is located on Karst geological conditions.	Generator design and placement will be addressed at the site plan stage of development to protect groundwater from spillage.	There are uses other than data centers that have the potential to be more impactful on the limestone geology. Staff uphold the standard of applying consistency in evaluating all uses.
D.11	Increased Traffic	The City's development regulations address road conditions and capacity. Improvements are required when certain metrics are met.	Development on this property will front an extension of Logistics Boulevard, which will be designed to serve all development intended to build out the area that the County has designated for industrial development.	The new traffic volume generated by development of this site will vary depending on use and could include heavy truck and more employee traffic.
		Other Topics		
D.12	Berms and buffers	The City has landscaping requirements that are applied to all new development equitably.	Given the potential for noise impacts, consideration should be given to requiring substantial berms and evergreen tree plantings around sources of noise created by a proposed data center.	Berms and buffers as applied in the Land Management Code are mostly used for aesthetics and as a limited noise attenuation feature. More substantial earthen and wooded features should be required for cooling systems and back up generators of a data center. **Possible City Policy Change:** This could be addressed by amendments to the Land Management Code and/or **Possible Annexation Condition:** Requiring significant berms and buffers.

	Topic	City, State, or Federal Regulations	Site limitations/Site Plan Review	Staff Comment
D.13	Decommissioning			The City administers a Vacant Buildings Ordinance which would apply to a data center that would become vacant as it would to any other industrial use on this site. **Possible Annexation Condition:** Requiring a decommissioning plan and bonding.
D.14	Development impact fees/Infrastrucutre improvements.		Public road design and construction will be required by City ordinances for extending Logistics Boulevard through their property to connect to the future development of properties to the north and northwest.	The County imposes a building excise tax which would be collected on the development of this property unless determined otherwise by the County. Construction of the northern extension of Logistics Boulevard will be done to City standards at the developer's expense for later dedication to the City. **Possible Annexation Condition:** Developer pays all costs for required public improvements.
D.15	Consideration of a City Moratorium			The City Land Management Code (LMC) varies from the County Land Management Code. Existing City regulations have generally good control of the range of topics. Updates to City regulations and policies can happen where needed without having to impose a moratorium. Electric capacity in the region greatly limits the number and size of propsective data center development. It is possible development may be limited to 1 medium-scale project in the next 7 years, and not a proliferation of development.

Follow Up to Public Hearing A-2026-02 - Burkholder Lane Acquisitions LLC and McDade Road Acquisitions LLC

Conditions and Regulations Comparison - Other Jurisdictions

	Topic/Jurisdiction	Hagerstown	Birmingham, AL	Loudoun County, VA	Franklin County, PA	Washington County, MD	Lancaster, PA
	Adoption Notes:	Staff Comments	Adopted June, 2026	Updates in progress.	Adopted May, 2026	In discussions	Adopted July, 2026
	Utilities						
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2	**Water (D.6)**	City controls the amount of water that will be allocated to the use. **Possible Annexation Condition:** When the end user is identified, understanding of cooling method and approval of final water allocation.	1. Provide water demand data, description of the cooling system and water sources, water reuse and efficiency measures and demonstrate adequate capacity at site plan. 2. Closed loop cooling required. 3. Potable water limited to initial charge, emergencies and other limited circumstances. 4. System flushing shall be pre-treated.	Not addressed in zoning code.	Submit documentation that the water authority certifies it will provide the water needed.	Water plan that utilizes water recycling, incorporates drought planning and utilizes geothermal or alternative cooling technologies	Water utilization report required with site plan. Capacity to serve would appear to be left to the site plan process.
	Community Impact						
3	**Noise (D.4, D.8)**	Administer existing noise ordinance. Maximum level in residential area 65 dBA daytime, 55 dBA nighttime. No study required. **Possible City Policy Change:** Amend Noise Ordinance to exclude data centers from the HVAC exception.	Provide description of noise mitigation measures for back up power generators. Provide pre construction and post construction noise study.	Subject to existing County noise standards. Noise generation (HVAC, generators) must be screened on all four sides with acoustical barrier, including roof or ground mounting.	Sets requirements for noise at the boundary line not to exceed 57 dBA "community noise equivalent".	Noice study evaluates pre and post construction noise. Limit noise to a maximum of 50 dBA at the property line and reduction of dBC tonal/narrow band noise to background noise levels.	Pre construction noise mitigation plan, post construction noise study and prohibits noise exceeding pre-construction ambient levels
4	**Lighting (D.2, D.9)**	Lighting of all uses is subject to site plan requirements. Photometric plan is required at site plan.	Specific limits on lighting set forth in ordinance.	Photometric plan required with site plan and regulated by existing code.	Not separately addressed. Presumably held to same standard as development of similar uses.	Nothing published yet. Presumably held to same standard as development of similar uses.	Not separately addressed. Presumably held to same standard as development of similar uses.

	Topic/Jurisdiction	Hagerstown	Birmingham, AL	Loudoun County, VA	Franklin County, PA	Washington County, MD	Lancaster, PA
	Adoption Notes:	Staff Comments	Adopted June, 2026	Updates in progress.	Adopted May, 2026	In discussions	Adopted July, 2026
5	**Generator testing hours and other issues**	Considering limiting testing to business hours	1. Describe generator type, fuel source, capacity, testing and maintenance schedule including hours of operation and description of noise mitigation measures. 2. Routine testing to be done during daytime hours and not used for routine grid support or non emergencies.	Testing limited to certain hours which have different standards depending on time of the year (two periods). Generators limited to back up or emergency only.	Not addressed.	Nothing published yet.	Prohibited on Sundays and Federal holidays
6	**Environmental (D.10, D.11)**	Maryland has strict SWM regulations, site plan regulations and forest conservation requirements applicable to all development which would be administered at site plan.	Compliance with stormwater management regulations and other site plan requirements imposed on other development.	Not specifically addressed. Presumably development of a data center would have to comply with the same environmental regulations as any other permitted use.	Requires "environmental impact assessment" but does not state how it is evaluated or used. Encourages Green Building Techniques and LEED certification of data center buildings. Requires riparian buffers.	Nothing published yet.	Not specifically addressed. Presumably development of a data center would be held to the same regulatory requirements of all other uses developed on the site.
7	**Air quality**	All industrial uses must comply with Article 4, Section K.21 (Industrial Performance Standards).	Not specifically addressed.	Not specifically addressed.	Cannot be perceptible beyond property lines (section on "negative impacts")	Study of air quality and environmental impacts.	Annual report required.
	Site Design						
8	**Zoning - Setbacks (D.1, D.4)**	Current 150 foot building setback from residential districts. **Consider:** Require data center buildings to be a minimum 500 or 1,000 feet from any city or county residential zoning district. This will greatly restrict location within the city.	500 foot setback from residential and "urban neighborhood" districts for all buildings and equipment.	200 foot setback from existing or planned residential use	Requires buildings to be a minimum of 1000 feet from all property lines. Substation at least 200 feet from property lines with year round landscaping.	Consider requiring 1,000 foot setback from existing and future homes.	Buildings set back at least 200 feet from residential properties, community use properties and residential zoning districts.
9	**Zoning - Height (D.2)**	Height limitations are codified in the zoning ordinance for all buildings.	Not addressed. Presumably held to same as other buildings.	Required height "step back" if within 400 feet of residential uses.	Limited to 35 feet. Waivers considered. Does not explain who approves waiver.	Nothing published yet. Presumably held to same standard as similar uses.	Not specifically addressed. Presumably held to same as other buildings in district.
10	**Zoning - Location (by right or special exception)**	**Consider:** Limit to the three industrial districts by right, subject to distance requirements. **Staff recommends against allowing a special exception in order to maintain consistent expectations and avoid legally questionable subjective approval processes.**	Creates three levels of data center, Largest are permitted in zoning districts roughly comparable to Hagerstown's CG, IR, I-MU and IG Zoning Districts, and certain mixed use districts - subject to performance conditions.	Permitted by special exception in the IP (Industrial Park), GI (General Industry) and Mixed Use Higher Intensity (MR-HI) districts.	Not a zoning regulation per se. County does not regulate zoning. Does not supercede municipality's zoning authority when the municipality has a zoning ordinance.	Restrict to the PI (Planned Industrial) District by special exception. Staff note: The properties under consideration for annexation are in this Zoning District. Refusal to annex the properties may not preclude presence of a data center.	Permitted by special exception in one zoning district (SM – Suburban Manufacturing), which is 3% of jurisdiction.
11	**Zoning - Other**	**Consider:** 1. Defining as over a certain size. 50,000 gsf floor area is suggested to regulate data centers of 10 MW or larger. 2. Establish specific parking requirement.	5 acre minimum aggregate lot area requirement.		Sets parking requirements. Requires at least one loading bay.		Ground mounted equipment shall be 300 feet from residential properties.

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12	**Architecture**	Existing LMC requires buildings to be constructed of low reflective material in earthtone colors. **Consider:** require data centers be constructed to appear as office buildings.	Roof mounted equipment screened by parapets or other architectural features.	Substantial architectural standards are in effect.	Buildings shall be of colors that are low-reflective, subtle or earth tone. Roof equipment screened by parapet.	Nothing published yet.	Requires parapet walls to screen rooftop equipment.
13	**Fencing and Screening (D.12)**	Berms and buffers as applied in LMC mostly used for aesthetics and limited noise attenuation. More substantial features should be required for cooling systems and back up generators. **Possible City Policy Change: A**mendments to the LMC and/or **Possible Annexation Condition:** Requiring significant berms and buffers and parapets masking rooftop mechanical systems.	Roof mounted equipment screed with parapets or other architectural elements. Ground mounted equipment screened from public view through walls, fencing and/or landscaping buffers.	Subject to existing County noise standards. Noise generation (HVAC, generators) must be screened on all four sides with acoustical barrier, including roof or ground mounting. Compliance with existing code for buffers is required. Retention of existing vegetation encouraged. Main building must be between residential and mechanical equipment.	Perimeter shall be surrounded by black chain link security fencing a minimum of 8 feet in height and “shall be of high-quality design and materials”. Service areas screened from view. Ground mounted equipment prohibited in any setback. Roof mounted equipment screened by parapet or penthouse. Widths of buffer yards vary depending on size of facility.	Require installation of noise barriers such as trees, berms, etc.	8 to 10 foot fencing of site perimeter required. 100 foot wide buffer along roads 12 foot tall minimum screening required for ground mounted equipment Rooftop equipment screened by parapet.
	Process						
14	**Community engagement**	Could be made a condition of the annexation.	Written notification of proposal required to be provided to all property owners within a 500 foot radius of the property.	Not specifically addressed.	Does not appear to include a community engagement component.	Require special exception from Board of Zoning Appeals to allow public input.	Requires developer to have community engagement meeting prior to planning commission review and sets standards for the meeting.
15	**Decommissioning and vacancy (D.13)**	The City has a vacant buildings ordinance which would apply to any building regardless of use. **Possible Annexation Condition:** Require a decommissioning plan and bonding.	Not specifically addressed.	Not specifically addressed.	Requires decommissioning plan and bonding with detailed requirements.	Nothing published yet.	Required, including timelines, financial security, structure removal, hazardous materials disposal, soil stabilization and site restoration.
16	**Fees (D.14)**	Site plan and other reviews will require payment of review fees. County imposes a building excise tax and appears to be considering a separate excise tax. **Possible Annexation Condition:** Developer pays all costs for required public improvements.	Not specifically addressed.	Not specifically addressed.	Applicant pays all applicable fees.	"Development of an appropriate excise tax or impact fee."	Not specifically addressed.
	Comments						
17	**City staff comments on sampled regulations**		These regulations are for data centers that are 200,000 square feet or larger. Two tiers of lesser regulations apply to smaller data centers.	Regulations focus heavily on site location, setbacks when adjacent to residential and architectural control.	Individual elements are of value to review, but the ordinance as a whole serves a much different environment and governmental framework than the city operates within.		Focused and concise.