

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – August 30, 2010**

The Washington County Planning Commission held its regular meeting on Monday, August 30, 2010, in the Washington County Court House, Room #1, 95 West Washington Street, Hagerstown.

Members present were: Chairman George Anikis, Linda (Parrish) Kelly, Drew Bowen, Terry Reiber, Sam Ecker (arrived at 6:53 p.m.) and Ex-Officio James F. Kercheval (arrived at 6:07 p.m.). Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planners Lisa Kelly and Jill Baker, and Administrative Assistant Debra Eckard.

CALL TO ORDER

Chairman George Anikis called the meeting to order at 6:00 p.m.

MINUTES

Mr. Bowen made a motion to approve the minutes of the August 2, 2010 regular meeting as presented. Seconded by Mr. Reiber. Unanimously approved.

Mr. Bowen made a motion to approve the minutes of the August 2, 2010 Rezoning Public meeting as amended. Seconded by Mr. Reiber. Unanimously approved.

Mr. Kercheval arrived at 6:07 p.m.

NEW BUSINESS

- MODIFICATIONS

Jason Kennedy (SV-10-011)

Ms. Kelly presented for review and approval a modification request to reduce the side yard setback requirement. The property is known as Lot 265B [a duplex lot] on the west side of St. George Circle in the St. James Village North PUD. St. James Village North is a Planned Unit Development that was developed and approved in the 1990's. The Washington County Zoning Ordinance requires that any variation in the approved layout of a PUD requires Planning Commission approval. The applicant is proposing to construct a one-car garage onto his duplex that would be 8-feet from the side property line. The minimum requirement is 12-feet from the side line. The Washington County Land Development Engineering Department has reviewed the application and take no exception to it. However, building and grading permits would be required and the applicant must comply with the requirements set forth in the 2010 Storm Water Management, Grading, Soil Erosion and Sediment Control Ordinance.

Discussion and Comments: Ms. (Parrish) Kelly asked if any of the neighbors commented on this request. Ms. Kelly stated that one person that owns adjacent property phoned Staff, but did not attend this evening's meeting. Mr. Reiber asked if there are any restrictions in the deed for the property. Ms. Kelly stated that a deed was not provided. Members expressed their concern regarding spacing between the duplexes.

Motion and Vote: Mr. Reiber made a motion to approve the modification request contingent upon Staff verifying there are no deed restrictions. Seconded by Ms. (Parrish) Kelly. Unanimously approved.

OTHER BUSINESS

- Proposed Comp Plan Amendments for Priority Preservation Element

Ms. Baker reminded Planning Commission members that during the August 2nd meeting, she briefly discussed proposed text amendments for the Comprehensive Plan's Priority Preservation Element. During this evening's meeting she distributed copies of maps associated with the Priority Preservation areas. Ms. Baker noted that in 2006, legislation was adopted under the Agricultural Stewardship Act, which provides guidance for counties in the State of Maryland to become more diligent in the effective spending of land preservation funds. It is the intent of the Act that counties establish goals and priorities for the effective and efficient use of land preservation funding. Staff previously submitted proposed text amendments, which were not approved by the State of Maryland. Two areas of concern cited by the State was the fragmentation of the priority preservation areas and related text. Ms. Baker briefly reviewed the maps with the Commission and changes made to the proposed text. A few comments have been received from members of the Commission with regard to adding language. Ms. Baker reviewed the proposed changes as suggested by Commission members.

Discussion and Comments: Ms. (Parrish) Kelly asked if there is a "down-side" to being included in the Priority Preservation area. Ms. Baker stated that the purpose of establishing these areas is to define priorities in our easement spending. She noted that the highlighted areas have been unofficially designated as "targeted areas" for priority funding.

It was the consensus of the Planning Commission that Staff should proceed with the proposed text amendment as presented this evening [including the recommended changes] as discussed.

- Harold Walter – RZ-10-003

Ms. Baker presented for review and recommendation the rezoning request for Harold Walter, property located at 13169 Orchard Ridge Road. The request is to apply the RB-N (Rural Business New) overlay zone to an existing EC zoning district. A public meeting was held with the Planning Commission on August 2, 2010 at which time two people spoke in favor of the request and 10 people spoke in opposition of the request. Ms. Baker noted that during the public meeting, two pieces of correspondence were presented from the general public stating their opposition to the request and a petition signed by approximately 230 citizens opposing the request. Additional correspondence from citizens opposing the request have been received by Staff and forwarded to the Planning Commission members prior to this evening's meeting. Ms. Baker briefly summarized the areas of concern relating to the health, safety and compatibility of the request as expressed by the general public.

One concern repeated many times was traffic and sight distance issues. Ms. Baker noted that the Land Development Engineering Department (LDED) reviewed the plans and submitted comments. They noted that a portion of Orchard Ridge Road leading to the proposed site does not meet minimum road width standards for the proposed use. During the public meeting, the applicant acknowledged the comment, and stated that the issue would be addressed during the site plan phase [if the rezoning is approved]. Another comment addressed by the LDED was the issue of sight distance. The applicant submitted an exhibit showing a proposed alternative access for one-way in and one-way out. Ms. Baker stated that this issue would also be addressed during the site plan phase [if the rezoning is approved].

Ms. Baker stated that one of the Planning Commission members questioned how the sight distance requirements for the driveway were previously met. She has discussed this issue with the LDED and was told that the property was approved as a subdivision in 2003. At that time, sight distance requirements were different for residential versus commercial uses. Ms. Baker addressed the traffic counts that were received from opponents of the request during the public rezoning meeting. The counts were performed by the County's Engineering Department at the request of a private citizen. An analysis has not been performed on the traffic counts because certain procedures must be followed during a traffic analysis study. Ms. Baker explained some of the procedures that would be used in performing a traffic analysis study and also what information can be extrapolated from the traffic counts that were taken.

The next issue to be addressed was fire suppression. The applicant noted that a swimming pool is proposed on the site that could help with fire suppression efforts. The applicant also noted that he would work with the fire department for alternatives. The public voiced concern regarding proximity to the existing hunt club, vagrancy and crime. Ms. Baker has researched some of the firearm laws in the State of Maryland pertaining to distances from other properties. According to Maryland State law, "It is unlawful to hunt, trap or shoot wildlife within 150-yards of an occupied structure or camp without permission of the owner or occupant". She used a map to demonstrate the impacts of hunting on neighboring properties. With regard to vagrancy, Ms. Baker noted that the Zoning Ordinance sets limitations on the length of stays at a campground. Violations on limitations requirements would be complaint driven. Ms. Baker pointed out that any new development has the potential to encourage illegal activity. The Sheriff's Department did not provide any comments on the proposed use.

Water and waste water concerns were also discussed during the public rezoning meeting. Ms. Baker stated that well permits are issued by the County Health Department and are also evaluated by the Maryland Water Resources Administration if more than 10 wells are proposed on the same parcel of land. Staff depends on the expertise of these agencies to determine if there is sufficient water quality and quantity in the aquifer and surrounding areas. Septic systems are also reviewed by the County Health Department. According to the applicant, two septic reserve areas have been perc tested and approved by the Health Department.

Discussion and Comments: Mr. Reiber noted that the proposed use would be seasonal. With regard to the road width issue, he expressed his opinion that it is not fair to compare a skilled professional driver (such as a school bus driver) with drivers who would be pulling travel trailers. Mr. Reiber expressed concern for the proposed campground site; however, he believes that the road issues would be addressed at the appropriate time. Ms. Baker noted that traffic analyses do not consider the type of vehicles that are using the roads.

Ms. (Parrish) Kelly expressed her opinion that the proposed use is compatible with the surrounding area. She expressed her opinion that it is the responsibility of the hunt club to protect the neighbors, which would allow the neighbors to use their property for the uses permitted.

Mr. Anikis expressed his concern with the applicant's comment made during the public rezoning meeting that he would ask the Board of Appeals to waive the widening requirement for Orchard Ridge Road because it is a matter of public safety. He also expressed his concern for the neighbors directly across from the entrance and traffic related issues for entering and exiting the proposed site. He believes that a second access point would help to alleviate part of the problem. Mr. Anikis pointed out that the hunt club has more than 600 members with a hunting season that runs from September through April, which would generate more traffic than 40 campground sites. He also pointed out that rifle season for hunting does not begin until November, at which time the campground would be closed. Mr. Anikis recommended mediation between the applicant and neighboring property owners.

Mr. Thompson noted that the public record will remain open until the Board of County Commissioners holds its public hearing. All comments made by the Planning Commission members will be forwarded to the BOCC.

Motion and Vote: Mr. Reiber made a motion to recommend approval of the zoning request to the Board of County Commissioners. Seconded by Ms. (Parrish) Kelly.

Comment before the Vote: Mr. Bowen strongly recommends that the applicant work with the neighboring property owners to resolve the related issues. His recommendation is based on compliance with MDE requirements for testing of wells in and around the proposed site and he believes that the neighbor's cooperation will be needed.

Vote: The motion passed with Mr. Reiber, Mr. Bowen and Ms. (Parrish) Kelly voting "Aye" and Mr. Kercheval abstained.

Mr. Ecker arrived at 6:53 p.m.

- Election of Officers

Mr. Ecker nominated Mr. Anikis to serve as Chairman. Seconded by Mr. Reiber. Unanimously approved.

Mr. Anikis nominated Mr. Reiber to serve as Vice-Chairman. Seconded by Ms. (Parrish) Kelly. Unanimously approved.

ADJOURNMENT BEFORE THE JOINT PUBLIC HEARING

Mr. Reiber made a motion to adjourn the meeting at 6:55 p.m. Seconded by Mr. Bowen. So ordered.

AFTER THE JOINT PUBLIC HEARING

Chairman Anikis reconvened the regular meeting of the Planning Commission following the Joint Public Hearing with the Board of County Commissioners at 8:47 p.m.

- RZ-10-004 – Rosewood PUD

Motion and Vote: Mr. Bowen made a motion to approve the change to the Rosewood PUD as requested. Seconded by Ms. (Parrish) Kelly. The motion passed with Mr. Reiber, Mr. Bowen, Mr. Ecker, Ms. (Parrish) Kelly voting "Aye" and Mr. Kercheval abstained.

ADJOURNMENT

Mr. Bowen made a motion to adjourn the meeting at 8:48 p.m. Seconded by Ms. (Parrish) Kelly. So ordered.

Respectfully submitted,

George Anikis, Chairman