

**WASHINGTON COUNTY PLANNING COMMISSION
WORKSHOP MEETING
October 18, 2010**

The Washington County Planning Commission held a workshop meeting on Monday, October 18, 2010 at 3:00 p.m. in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown, Maryland.

Members present were: Chairman George Anikis, Andrew Bowen, and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planners Stephen Goodrich and Timothy Lung, Planner Fred Nugent and Administrative Assistant Debra Eckard.

CALL TO ORDER

Chairman Anikis called the meeting to order at 3:10 p.m. without a quorum present.

DISCUSSIONS

Mr. Anikis announced that the purpose of the Workshop was to review comments received during two joint public hearings with the Board of County Commissioners regarding the comprehensive rezoning of the Urban Growth Area. He stated that two major issues were discussed during the public hearings, one was the differences between the HI-1 zoning and the proposed HC zoning and the impact this change would have on property values and uses currently existing on properties to be changed. The second major issue was the Airport Hazardous Wildlife zone.

Mr. Goodrich distributed a list of discussion points that were brought to the attention of Commission members during the public hearings. He noted that obvious mistakes in property assignments were made on some properties and staff is in the process of correcting those mistakes. Mr. Goodrich stated that staff has tried not to create non-conforming uses when assigning new zoning designations; however, if zoning is based on the current uses on every piece of property, then zoning loses its effectiveness as a planning tool for the future. Mr. Kercheval expressed his concern with regard to the number of properties that would have non-conforming uses if the zoning is changed. He believes that if a business use has been established on a property for quite awhile, the zoning should fit the use currently on the property. Mr. Goodrich noted that more than 20 formal requests for a change in zoning have been received since the public hearings and more are anticipated.

Mr. Anikis began a discussion regarding the proposed elimination of the HI-1 zoning classification. He noted that on page 244 of the County's 2002 Comprehensive Plan, a new commercial district called Highway Commercial was recommended and that the district would be located along highway interchange areas that are devoted to commercial development. This district would replace the Highway Interchange 1 zoning classification. Mr. Anikis stated that in reviewing his notes taken during the adoption of the County's Comp Plan in 2002, he could not find any discussions regarding the replacement of the HI-1 zoning with the HC zoning. He also noted that he could not find any discussions on this subject with the UGA Advisory Committee. Mr. Goodrich stated that Staff did not discuss this issue with the UGAAC because its guidance is taken from the Comprehensive Plan. He stated that the HI-1 zoning designation allows a wide variety of uses; however, there can be conflicts between the industrial and commercial uses allowed in this district. Mr. Anikis questioned Staff "what would developer's lose" if the proposed HC zoning classification is adopted and the HI-1 zoning is eliminated. Mr. Goodrich briefly explained the differences between the HI-1 and the proposed HC zoning districts. He stated that the Industrial Restricted (IR) uses (i.e. light manufacturing) have been eliminated from the HC zone; however, the Office, Research and Technology (ORT) uses have been added to the HC zone. Commission members discussed the concerns expressed by property owners at the public hearings and the issue of flexibility in the HI-1 zone that is not available in the proposed HC zone.

Mr. Kercheval favors a more flexible highway zone. Mr. Bowen concurred with Mr. Kercheval and he believes that the County is "taking too big a step in getting away from the HI-1 zone" to a zone that is less flexible. He is in favor of reinstating the HI-1 zone on all properties currently proposed for the HC zone [if they were previously zoned HI-1]. Mr. Bowen recommends that the design standards specified in the proposed HC zone be added to the HI-1 zone. Mr. Kercheval recommends establishing the HI (Highway Interchange) zone, reinstating the IR uses, and adding the Design Standards (as suggested by Mr. Bowen).

There was a brief discussion regarding Staff's concerns with the HI-1 zoning district. Staff noted that it was concerned with the appearance of properties around the interchanges and also the mixture of traffic at the interchanges from industrial, commercial and employment uses.

Mr. Goodrich noted that when the IR uses were eliminated from the proposed HC zone, more land was zoned IR in other places around the UGA. He then referred Commission members to charts he distributed at the beginning of the meeting comparing existing zoning and acreages to proposed zoning and acreages. Commission members briefly discussed the charts and comparisons.

Consensus of the members present: Eliminate the proposed HC zone, reinstate the HI-1 zone; reinstate the IR uses; keep the ORT uses in the HI-1 zone; put the HI-1 zone back on the parcels that were previously zoned HI-1 [with the possible exception in some areas after further study]; change the name of the zone to HI (Highway Interchange); and add the Design Standards.

Citizen Comments: Mr. Gerald Ditto was present at the Workshop and offered the following comments: "I am discouraged at the number of Planning Commission members here today making these decisions." He also expressed his disappointment that members are not considering the use of a TDR program.

Members continued their review of the topics discussed during the public hearings. There was a brief discussion regarding the ability of infrastructure to handle increased density (schools, road, and water). Mr. Kercheval expressed his opinion that the comments made with regard to recycling were very technical in nature and should be addressed by a meeting with the individual who spoke at the hearing (a member of the Advisory Board). He expressed concern with regard to proposed language dealing with outside storage of materials and the creation of non-conforming uses. Mr. Kercheval questioned the proposed text to allow churches in the Business General (BG) zoning district. Mr. Goodrich stated that the "functionally similar" language was added to the Special Exception language in the BG district. This would allow the Board of Appeals to allow a church in the BG zoning district. Mr. Thompson stated that the BL zoning district would also allow churches as a Special Exception use. There was a brief discussion by members to allow churches as a principal permitted use in the BG zone. This issue will be discussed at a later time when a quorum is present.

Mr. Kercheval began a discussion regarding cemeteries. Mr. Goodrich stated that cemeteries are not a permitted use in any zoning district except the old Agricultural zone; however, cemeteries are an accessory use when operated in conjunction with a funeral home or a church. Cemeteries are special exception uses in the Environment Conservation (EC), Preservation (P), Rural Village (RV) and Agricultural Rural (AR) zoning district. Mr. Goodrich stated that the stand-alone cemeteries are located in the proposed HC (Highway Commercial) zone.

Mr. Kercheval noted during the public hearings that Mr. Fred Frederick, of Frederick, Seibert & Associates discussed a nursing facility that would not be allowed to operate in the PI (Planned Industrial) zone. Mr. Goodrich stated that the nursing facility could make a formal request for a change in their proposed zoning that will be reviewed after the comment period has closed.

Mr. Kercheval noted that a comment was made during the public hearings regarding the functionally similar language being added to more zoning district. Mr. Goodrich believes that the functionally similar language was included in all zoning districts. A comment was also made during the hearings regarding no drive-thrus or restaurants in the PI zoning district. Mr. Goodrich stated that the PI district restricts them to provide services for employees of the industrial uses in the district. Staff believes that drive-thru restaurants would draw traffic from other areas.

Commission members began a discussion regarding property located at the corner of Showalter Road and US Route 11 (Colonial Restaurant). This property is currently zoned HI-1 and proposed to be changed to BL.

Consensus of the members present: This property should be zoned HI-1.

Mr. Anikis began a discussion regarding issues dealing with the Airport and the Hazardous Wildlife Attractant zone being proposed. He noted that a minority of the UGA Advisory Committee supported the establishment of a Wildlife Advisory Committee to evaluate issues related to hazardous wildlife at the airport. He reminded members that the FAA requires airports to perform a Wildlife Mitigation Program. Mr. Anikis expressed his opinion that the Hagerstown Regional Airport should establish a Committee and that the Planning Commission should recommend that the BOCC direct the Airport Director to create this committee. Mr. Anikis stated that he has read the Part 139 – Airport Certification. He noted that the circular "requires airports to consider wildlife attractants within 10,000 feet of the airport" and it recommends that consideration should be given to areas within a 5 statute mile radius. Mr. Anikis noted that airports with no passenger flights are not required to have a wildlife mitigation plan. He stated that Part 139 also states, "These requirements vary depending upon the size of the airport and the types of flights available. The regulation, however, does allow FAA to issue certain exemptions to airports that serve few passengers yearly and for which some requirements might create a financial hardship." He expressed his opinion that some deviations from the requirements could be requested. Mr. Bowen expressed his opinion that a committee should be formed to evaluate these issues and to abandon the five mile radius. He believes that the Airport Clear zone and Airport Overlay zone should be maintained. Mr. Kercheval expressed his concern for the properties adjacent to the airport property. He believes that there should be some review or some guidelines that should be followed. The Commission discussed the Airport Hazardous Wildlife Attractant zone and changing the five mile radius. There was also a brief discussion regarding the formation of an advisory committee and guidelines.

Consensus of the members present: Eliminate the five mile radius requirement and substitute the Airport Overlay zone as the area that would require development review by the Airport Director or an advisory committee, if guidelines exist for the management of hazardous wildlife.

The Commission began a discussion regarding Transferable Development Rights (TDRs). Mr. Kercheval expressed his opinion that language should be added to the proposed text that states if a TDR program is established [within a specified number of years] the current zoning that exists prior to the proposed change is what should be used to determine property density. He briefly explained his concept. Staff discussed the problems they believe would be caused by implementing a TDR program and "going back in time" to determine a property owner's density. Mr. Bowen expressed his opinion that a TDR program should be implemented. It was suggested that the UGA rezoning should not be adopted until a TDR program is implemented.

Mr. Kercheval asked if language could be added to the proposed text to allow amendments or appeals to be filed for 6 months following the final adoption. This would only apply to areas where a mistake may have been made during the process. Mr. Thompson stated he would check on this issue.

Mr. Anikis voiced his opinion that personalized letters should be sent to property owners when the final zoning is adopted.

The Chairman adjourned the meeting at 5:10 p.m.

Respectfully submitted,

George Anikis, Chairman