

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – JANUARY 9, 2006**

The Washington County Planning Commission held its regular meeting on Monday, January 9, 2006, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman Don Ardinger, R. Ben Clopper, Linda Parrish, Bernard Moser, George Anikis, Terry Reiber, and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planners Lisa Kelly Pietro and Misty Wagner-Grillo, and Administrative Assistant Debra Eckard.

CALL TO ORDER

Chairman Don Ardinger called the meeting to order at 7:03 p.m.

Mr. Thompson stated that the subdivision plat for Powers Estates (PP-05-007) and the site plan for Edgewood Drive LLC (SP-05-060) have been removed from the Agenda. The minutes for the December 5, 2005 Regular Planning Commission meeting have been added to the Agenda for review and approval.

MINUTES

Mr. Moser made a motion to approve the minutes of the November 7, 2005 Regular meeting as amended. Seconded by Mr. Anikis. Unanimously approved.

Mr. Clopper made a motion to approve the minutes of the December 5, 2005 Regular meeting as amended. Seconded by Mr. Anikis. Unanimously approved.

NEW BUSINESS

VARIANCES:

Donn Ebberts (SV-05-040)

Mr. Lung presented for review and approval a variance request for Donn Ebberts. The property is located along the north side of Black Rock Road. The owner is requesting a variance from the Subdivision Ordinance Section 405.11.G.4 that restricts the stacking of no more than two lots. In 1994, the applicant received approval of a four-lot subdivision, Lots 1, 2, 3 and Parcel 217. Mr. Ebberts currently lives on Lot 1. The remaining lands, parcel 217, was conveyed to his son, Lot 3 is to be conveyed to his daughter and Mr. Ebberts still owns Lot 2. The front portion of the property, including Lot 1 and the remaining lands, is zoned RV – Rural Village and the rear portion containing Lots 2 and 3 is zoned EC – Environmental Conservation. Mr. Ebberts is proposing to re-subdivide Lot 1 to create a new 1.48-acre lot to the rear of Lot 1. A 400-foot panhandle will serve the new lot. The new building lot would meet the minimum lot area requirements of the RV zoning district. The configuration of the proposed lot is due to the location of the existing house and septic area on Lot 1. The Environmental Conservation zoned land has no potential for additional subdivision.

Mr. Clopper made a motion to approve the variance request based on configuration of the property and the Commission's desire to direct growth into the Rural Village areas. Seconded by Mr. Kercheval. Unanimously approved.

SITE PLANS:

Garcia Boarding Kennel (SP-05-053)

Ms. Wagner-Grillo presented for review and approval the site plan for Garcia Boarding Kennels located on the north side of Lappans Road in Fairplay. The property is 5.12 acres. The Board of Zoning Appeals granted a special exception on May 25, 2005 to allow the kennel to be established without runways. The appeal was based on the previous zoning of Agriculture that did allow kennels. The current zoning designation is A(R) – Agriculture Rural and does not allow the proposed use. Expansion of the kennels may require an application for a Rural Business zoning designation. The owner is proposing 18 kennels in the existing 1,247 square foot building with outside runways. There will be one employee. Hours of operation will be Monday through Saturday 8:00 a.m. to 5:00 p.m. Five parking spaces are required and five spaces and one handicapped space will be provided. Lighting will be two building mounted floodlights at the front and rear of the kennel building. A 4' x 8' freestanding sign is proposed in the front of the property. Trash and waste disposal including the animal waste will be collected in an on-site container and picked up by a private contractor. No deliveries are proposed. This site is exempt from the forest conservation and storm water management requirements. All agency approvals have been received.

Discussion: Mr. Anikis expressed concern regarding the proposed 4' x 8' business sign. He stated that when the new outdoor advertising ban went into effect, signs along Lappans Road were limited or reduced because it is a main access road to the historic Antietam Battlefield. He noted that there is a kennel within one mile of this site that has a smaller (approximately 2' x 2') sign that is less intrusive to the area. Mr. Anikis requested that the owner reconsider the size of the proposed sign for his kennel.

Mr. Garcia stated that he would consider adjusting the size of the proposed sign but would prefer a sign that is approximately 4' x 4'.

Mr. Moser made a motion to approve the site plan. Seconded by Mr. Reiber. Unanimously approved.

Maugansville Elementary School (SP-05-066)

Mr. Lung presented for review and approval the site plan for the Maugansville Elementary School. The property is located along the south side of Maugans Avenue just east of its intersection with Maugansville Road. The site consists of two parcels that are approximately 30 acres in size. One parcel is zoned HI-1 – Highway Interchange 1 and one parcel is zoned RR – Residential Rural. The existing school building will be removed. The proposed two-story building will contain 64,743 square feet and is designed to accommodate 735 students. The primary entrance to the school will be located across from the intersection of Maugans Avenue and Greenfield Avenue. A bus loop in front of the school and a private car drop-off loop are proposed. Parking provided will be 99 spaces including handicapped spaces and an adjacent paved play area will accommodate overflow parking for special events. A secondary access road is proposed to serve as a service entrance for deliveries and trash pick-up. An emergency connection is proposed between the primary access and the secondary access roads. Landscaping will be provided around the building and buffer yards, pursuant to the Highway Interchange zoning, are provided in areas adjacent to existing dwellings. A five-foot high chain link fence is proposed along the property line adjacent to the railroad and along the front of the school property at Maugans Avenue. Sidewalks will be constructed along Maugans Avenue and a pedestrian crosswalk across Maugans Avenue that will connect to the sidewalks in the Seneca Ridge development. A school crossing guard will be located at this crossing. The existing sidewalk on the west side of the proposed entrance will be extended to the reduced entrance with the Ruritan Club. A crossing guard will also be provided at this location. The proposed access road is designed to the ultimate right-of-way width for the widening of Maugans Avenue that is scheduled in the County's Capital Improvements Program for 2010. A portion of the sidewalk will be temporary until the County does the widening project. The storm water management pond will be located northwest of the access road. A stream buffer and crossing will be required along the sensitive area that has been identified on the site at the proposed entrance road. Approval is required from the Planning Commission to allow any disturbance within the designated stream buffer. The Soil Conservation District recommends approval of the crossing contingent upon obtaining the appropriate permits and addressing sediment and erosion control issues. Pole mounted lighting is proposed along the entrance, parking lot and service road. The photometric plan that was submitted shows no spillover on adjoining properties from these lights. Public water and sewer serve the existing school building. An additional 2,000 gallons of sewer allocation is needed to serve the new school and has been designated in the City of Hagerstown's 2006 Sewer Allocation Program and the County's Allocation Management Plan. The Forest Conservation requirement will be met on-site by planting 4.22 acres of trees.

Comment: Mr. Lung stated that this is designated as a "fast-track" project. The Planning Staff's comments have been addressed. The Engineering Department and Soil Conservation District have reviewed the plans and issued technical comments that will not affect the overall design of the site. The Department of Water Quality has granted approval contingent upon the payment of all fees and the completion of all requested revisions. No comments have been received from the City of Hagerstown Water and Sewer Department.

Discussion: Mr. Moser expressed concern regarding the number of proposed parking spaces vs. the number of students that could attend the school. Mr. Lung stated that the Board of Education is requiring a minimum of 80 parking spaces based on their past experience of school sites of this size. Mr. Cvijanovich of Davis, Renn & Associates stated there would be 20 to 30 additional parking spaces available on the paved play area. He also stated that parking would be available at the Maugansville Little League field and the Ruritan Club, both are located in close proximity to the school.

There was a brief discussion regarding the design of the emergency access to permanently connect the primary and secondary access roads. It was suggested that the connection could be used only during special events and not on a day-to-day basis. The length of time proposed to be use the temporary entrance onto the site was also discussed. Mr. Cvijanovich stated that it is their intent to demolish the old school buildings to maintain adequate ingress and egress. Mr. Kercheval recommended that the plan be re-examined to provide alternate access if the County needs to temporarily keep the old school open to help with capacity issues until permanent solutions can be found.

There was a brief discussion regarding the location of new fire hydrants to serve the property. Mr. Cvijanovich stated that there is one new hydrant proposed near the service entrance. Mr. Lung stated that no comments were received from the Department of Emergency Services or the Maugansville Fire Department.

There was some discussion regarding the proposed chain link fence located near the railroad. Mr. Cvijanovich stated that the fence would be connected to the existing fence at the Maugansville Little League baseball field and the General Electric property. A fence will also be located along the front of the property where soccer and baseball fields are proposed.

Mr. Anikis made a motion to grant site plan approval contingent upon all agency approvals and payment of all required fees, approval of any disturbance within the designated stream buffer contingent upon obtaining the appropriate permits and addressing sediment and erosion control issues, and approval of the on-site planting of 4.22 acres of trees to meet the Forest Conservation Ordinance requirement. Seconded by Mr. Moser.

Comment: Mr. Reiber recommended amending the motion that if any agency comments require major changes to the site plan, the revised plan should be reviewed and approved by the Planning Commission. Mr. Anikis amended his motion to include Mr. Reiber's recommendation. Mr. Moser concurred. Unanimously approved.

PRELIMINARY CONSULTATIONS

Allison Avenue Project (PC-05-028)

Ms. Pietro presented for review and comment the preliminary consultation for the Allison Avenue Project located on the west side of Bower Avenue just north of its intersection with Sterling Road. The developer is proposing a Planned Unit Development with 137 townhouses on 24 acres. The property is currently zoned A – Agriculture and the developer is planning to apply for a PUD zoning overlay. The Engineering Department made the following comments during the preliminary consultation: the proposed private streets should be public, a traffic impact study would be required, accel/decel lanes would be required at the Bower Avenue intersection, a second access would be required, and basements are not recommended due to drainage issues on the property. The State Highway Administration made the following comments: a traffic impact study would be required at the intersections of Virginia Avenue and Bower Avenue, Virginia Avenue at Massey Boulevard and Maryland Route 632 at Sterling Road. The study needs to focus on the potential conflict between the left turn movement and the cuing for Massey Boulevard and Bower Avenue on Virginia Avenue. The study should include the traffic counts from the proposed Williamsport Ventures PUD. The State Highway Administration expressed their concerns regarding the ability to upgrade U.S. Route 11 to acceptable standards at Bower Avenue and Massey Boulevard due to the limited right-of-way on Virginia Avenue. The Department of Water Quality made the following comments during the preliminary consultation. They expressed concern regarding utility easements on the proposed private streets. A minimum of 50 units per year would be allocated for this development. The City of Hagerstown stated that an application must be submitted and reviewed by the Annexation Review Committee. Staff made the following comments during the preliminary consultation. The proposed development is located in the Williamsport Elementary, Springfield Middle and Williamsport High school districts. Currently, Williamsport Elementary and Williamsport High schools are over capacity. An historic farm complex is located on the site. Staff expressed their concern regarding the proposed private streets. Parking space is limited and should be re-examined. The PUD overlay requires parking designated spaces for recreational vehicles. A buffer was recommended along the railroad tracks and along Interstate 70. The total Forest Conservation requirement for this property is 3.48 acres and will be met by the on-site planting of 3 acres of trees. The developer may be permitted to plant the remaining ½ acre of trees in the Storm Water Management area or may request approval of payment in lieu of by the Planning Commission for the remaining ½ acre. The developer will submit a copy of the Home Owner's Association documents for Staff review. An easement should be considered along the rear of the dwellings for emergency access.

A revised plan was submitted addressing numerous comments and concerns of the approving agencies. The revised plan proposes a second access on the property and retention of the existing historic barn, farmhouse, and springhouse. The proposed interior street system would be public. The existing wetlands would have buffers. The developer is proposing a six-foot high wooden fence along the railroad tracks and Interstate 70.

Discussion: Mr. Reiber recommended that the developer use a six-foot high vinyl fence along the railroad tracks instead of a wooden fence.

Mr. Jason Divelbiss, attorney for the developer, stated that the Historic District Commission recommended conversion of the barn into a house. The developer researched the practicality of the Commission's recommendation and has determined that conversion is not a practical solution due to the size and marketability of the structure. Currently, the developer is proposing to remove the barn.

There was a brief discussion regarding the placement of the proposed fence along Interstate 70 and the railroad tracks as a noise buffer. Commission members expressed their concern that the fence would not provide an adequate buffer against the noise.

Mr. Moser expressed concern regarding the traffic at the intersection of Bower Avenue and Route 11.

Mr. Kercheval recommended that the developer should consider obtaining a traffic study and have it reviewed by Staff prior to any public hearings. He also recommended a more substantial buffer along Interstate 70. He does not support any payment in lieu of to meet Forest Conservation requirements.

Mr. Anikis expressed concern regarding the amount of traffic that would be generated by the proposed development. He also recommended obtaining a traffic study prior to any public hearings. He does not support a payment in lieu of to meet the Forest Conservation requirement and would recommend planting trees in place of constructing some of homes.

Ms. Parrish noted that the number of homes proposed for this development would add to the existing drainage problems on this property. She also expressed concern regarding traffic problems and school capacity issues. She is not in support of a PUD overlay for this development.

Mr. Reiber stated that he is not in support of payment in lieu of to meet Forest Conservation requirements. He commended the developer for improvements in the design layout.

Mr. Clopper stated that he is not in support of constructing a wall along Interstate 70 as a noise buffer and would rather have trees planted as a buffer.

No action required.

Mr. Ardinger left at 8:40 p.m. Mr. Clopper, Vice Chairman, conducted the remainder of the meeting.

FOREST CONSERVATION

Richard McCleary (SP-05-047)

Ms. Pietro presented for review and approval a Forest Conservation Mitigation request from Richard E. McCleary. In October 2002, the Planning Commission approved a final plat for two "IG" lots and remaining lands along the east side of Western Maryland Parkway. The purchaser/developer was Mr. Richard McCleary. The Forest Conservation requirement was met by retaining .99 acres of existing forest on-site and 6.19 acres off-site on Mr. McCleary's farm on College Road. The Planning Commission approved a site plan for these three lots in November 2004. The site was known as NetConn Solutions or 100K Warehouse. In September 2005, a revised site plan was submitted for Parker Plastics to construct an office addition to their existing building. During review of the revised site plan, Ms. Pietro noted that the Forest Retention areas were not shown. In speaking with Mr. Tony Taylor of Frederick, Seibert and Associates, consultant for Parker Plastics, he verified that the trees have been cut and removed. Therefore, the site does not comply with the Planning Commission's 2002 approval and is in violation of the Forest Conservation Ordinance. On December 20, 2005, Staff received a letter from Mr. McCleary stating that the forest was accidentally cleared and is requesting approval to meet the Forest Conservation requirement by payment in lieu. The payment would be made for 1.99 acres or \$8,668.54.

Discussion: Mr. Bill Stachowiak, Planning Staff, stated that the Forest Conservation Ordinance requires trees to be planted within two growing seasons from the time of final plat approval. If forest is being retained, signs must be posted in the retention area. The current Forest Conservation Ordinance establishes a fee for non-compliance of \$.30 per square foot for the area found to be in non-compliance. There is also a violation fee not to exceed \$1,000 per day that must be sought in a civil court suit.

Comments: Mr. Anikis believes that Mr. McCleary should pay the non-compliance penalty and replant the area that was cut.

Mr. Clopper concurred with Mr. Anikis's recommendation.

Mr. Moser also concurred with Mr. Anikis's recommendation. He believes that the Commission has supported economic development, but the County has been lax regarding the enforcement of environmental issues.

Ms. Parrish stated her opinion that the trees should be replanted at a 2:1 ratio, planting half of the trees on-site and half of the trees off-site.

Mr. Kercheval stated that he is not opposed to the payment of a penalty but supports the planting of the trees at a 2:1 ratio in an area that would provide more benefit for the County.

Mr. Reiber concurred with Mr. Kercheval.

Mr. Anikis made a motion to deny the request for payment in lieu of and direct him to replant trees on-site in the area that was cut and to recommend payment of the non-compliance penalty of \$.30 per square foot as directed by the Forest Conservation Ordinance. Seconded by Mr. Moser.

Comment before the vote: Mr. Reiber believes that a precedent has been set for off-site planting on this development and others and that payment in lieu or off-site planting would be adequate in this case.

Mr. Anikis's motion passed with Mr. Anikis, Mr. Moser, and Ms. Parrish voting "Aye" and Mr. Reiber and Mr. Kercheval voting "Nay".

Discussion: Mr. Taylor requested clarification of the motion. In order to fully mitigate the site according to the Forest Conservation Ordinance requirements, the site should be replanted at a 2:1 ratio. The Commission's desire is for the developer to replant the disturbed area and pay the non-compliance penalty and to waive the additional .99-acre planting. Mr. Thompson stated that he would contact the County Attorney for clarification on this issue.

Mr. Kercheval made a motion that when clarification is received from the County Attorney and if the additional .99 acre mitigation is required, the Planning Commission will accept, at the discretion of the applicant, payment in lieu of or planting off-site at Mr. McCleary's farm of .99 acres to meet the Forest Conservation requirement. Seconded by Mr. Anikis. Mr. Kercheval's motion passed with Mr. Kercheval, Mr. Anikis, Mr. Moser and Ms. Parrish voting "Aye" and Mr. Reiber voting "Nay".

OTHER BUSINESS

Land Preservation, Parks and Recreation Plan

Mr. Stachoviak presented for review and a recommendation the Land Preservation, Parks and Recreation Plan. The Plan is required by the State to determine how POS funding is being used within the County. The Plan summarizes policies, goals and recommendations for land protection and conservation from the Comprehensive Plan, inventories Agricultural easement acreages, park and recreation site and acreage and projects needs in relationship to the County's acreage goal for agricultural easement and park land. It identifies 2,250 acres of County and Board of Education parks and open space areas. According to the 2005 population, the County meets its local park and open space goal of 15 acres per 1,000 people. Assuming that all developments are built and all residents are new to the County, approximately 33 acres of additional park land will be needed each year over the next 15 years to meet the County's goal.

Comments: Mr. Thompson stated that the County's Parks and Recreation Department is trying to assess the wants and needs of facilities and programs in the future. He noted that the proposed Maugansville Elementary School might have a larger gymnasium and restroom facilities accessible from the outside for organizations that would use the soccer and/or baseball fields. The County would have control of the playing fields.

Mr. Anikis made a motion to recommend to the Board of County Commissioners that the Land Preservation, Parks and Recreation Plan is consistent with the goals and objectives of the Comprehensive Plan. Seconded by Mr. Moser. Unanimously approved.

Mr. Thompson stated that Hagerstown Spring and Alignment located on Oakmont Drive is proposing an addition to their existing building. Staff has received and reviewed the site plan and has received approvals from all agencies. Hagerstown Spring and Alignment has requested permission to begin grading on the site prior to approval of the Planning Commission. The site plan will be presented to the Planning Commission at the February meeting. The developer would proceed at their own risk prior to receiving all permits and approvals. The Planning Commission gave Mr. Thompson their approval to allow grading only to begin at this time.

Mr. Thompson presented information regarding a proposed policy for documents needed prior to public hearings for rezoning requests. The proposed policy would require supplemental materials to be filed 14 days prior to the hearing and would allow additional information in response to a specific question from the Commissioners or Commission members to be submitted within a specific time limit.

UPCOMING MEETINGS

1. Planning Commission Workshop meeting, Wednesday, January 18, 2006, 1:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street.
2. Planning Commission Regular meeting, Monday, February 6, 2006, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street.

ADJOURNMENT

Mr. Moser made a motion to adjourn the meeting at 10:20 p.m. Seconded by Ms. Parrish. So ordered.

Respectfully submitted,

Don P. Ardinger, Chairman