

**WASHINGTON COUNTY PLANNING COMMISSION
WORKSHOP MEETING – February 19, 2007**

The Washington County Planning Commission and Planning Staff held a workshop meeting on Monday, February 19, 2007 at 1:00 p.m. in the Washington County Administrative Annex, Conference Room #1, 80 West Baltimore Street, Hagerstown, Maryland.

Planning Commission members present were: Chairman George Anikis, Bernard Moser, Terry Reiber, Linda Parrish, Sam Ecker, Clint Wiley and Ex-Officio, James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planner Jill Baker and Administrative Assistant Debra S. Eckard. Also present was: Terry McGee, Director, Engineering Department, John Latimer, Chief, Department of Emergency Services, and Andrew Wilkinson and Kirk Downey, County Attorneys Office.

CALL TO ORDER

Chairman George Anikis called the meeting to order at 1:00 p.m.

DISCUSSION

A. Powers Estates APFO Agreement

This item was a continuation from the February 5, 2007 Regular Planning Commission meeting. Mr. Thompson began this discussion by stating that the County Attorney's office has been reviewing the APFO process and the responsibilities of the Planning Commission when mitigation is involved with a development. Mr. Wilkinson of the County Attorney's office, stated that Sections 3.1, 3.4, and 9.7 of the Adequate Public Facilities Ordinance are applicable to the Planning Commission. He summarized the various sections as follows: Section 3.1 of the APFO says that the Ordinance will be administered by the Planning Commission and all applications or documents relative to subdivision approval will be submitted to the Planning Commission; Section 3.4 says that new development not meeting the requirements of APFO shall not be approved by the Planning Commission and if the plan does not meet APFO, it is the job of the Board of County Commissioners to consider a mitigation plan; and Section 9.7 says that if a developer fails to negotiate a mitigation agreement for APFO with the BOCC, the Planning Commission shall disapprove the project. When reviewing and assessing all of the terms together, it is the opinion of the County Attorney's office that the Planning Commission's role in mitigation of APFO is quite minimal. Mr. Wilkinson further explained the process by saying that when a subdivision is submitted and does not meet APFO, the developer must negotiate with the Board of County Commissioners to produce a mitigation plan. When the mitigation plan is approved and signed by the County Attorney's office, Mr. Thompson will report to the Planning Commission that APFO requirements have been met and the Planning Commission may then move forward with the approval process for development.

Mr. Anikis expressed concern that there is no tie between the mitigation agreement and actual school capacity numbers and the impact on various schools. Mr. Wilkinson stated that during the negotiation process for mitigation between the BOCC and the developer, actual school capacity numbers are utilized. Mr. Anikis asked why the capacity numbers are not made part of the mitigation plan. Mr. Wilkinson stated that for his purposes at the County Attorney's offices, he does not need the actual agreement to state the exact number of students that would be produced by a development. He needs to know how much the developer is going to pay, when it will be paid and if the BOCC has approved the mitigation plan. Mr. Thompson stated that the proposed phasing for the development is also required as part of the approval process. Mr. Kercheval stated that a development technically fails the APFO until adequate public facilities have been resolved. Mr. Anikis asked how students and schools in accordance with the proposed timeframe would be absorbed into the school system. Mr. Kercheval stated that the Washington County Board of Education would be responsible to determine a redistricting plan for the area. Mr. Thompson stated that approximately 8 or 10 different schools could potentially be impacted by this development. Mr. Thompson stated that during the preliminary plat process, the Planning Commission relayed to the developer that school capacity issues were problematic in this area. Therefore, the developer began working with the BOCC to develop a mitigation plan. The Planning Commission's adopted policy states, *"The Executive Director shall have the authority to review and approve all final plats for which previous approval has been granted the Preliminary Plat by the Planning Commission provided the Final Plat meets all subdivision requirements and represents no substantial change from the approved Preliminary Plat"*. Therefore, once APFO issues are settled, Staff can move forward with the approval of the final plan as long as nothing changes. Mr. Wilkinson stated that the County Attorney's position is that *"a developer cannot get any final approval until APFO requirements are met either by mitigation or outright"*. Mr. Reiber expressed his concern that the Planning Commission is not receiving the correct data on which to base valid decisions. Mr. Wiley expressed his opinion that the information is there; however, the school board and the County do not have a unified method to provide access to the information. Mr. Reiber expressed his opinion that the County is suffering from 20 years of neglect and should not impact the majority of today's development. There was a brief discussion regarding a meeting between Mr. Thompson and the Board of Education's new planner and information that should be provided to the Planning Commission. Mr. Kercheval would like to see a basic worksheet prepared by the Board of Education for each development.

He would also like the Board of Education to provide information regarding the process and potential for developers to provide new additions to schools in lieu of monetary contributions. Mr. Thompson stated that the BOE has recommended a 2 + 2 committee between school board members and members of the BOCC to work on mitigation issues. Mr. Kercheval asked who decides if a development passes or fails road adequacy. Mr. Wilkinson stated that the Adequate Public Facilities Ordinance states that the Planning Commission determines the adequacy of public facilities. He noted that the Planning Commission would rely on other agencies, such as the County Engineering Department, to provide them accurate and up-to-date information on which to base their decision. Mr. Wilkinson stated that if anything under the APFO fails, the project is stopped or the developer would be required to produce a mitigation agreement that would be approved by the BOCC. Mr. McGee stated that the Engineering Department defines adequacy as specified by the County's Highway Adequacy Policy. Road adequacy is based on specific levels of service and criteria very specifically defined in the Highway Adequacy Policy. Mr. Anikis asked if the Planning Commission could disagree with County Engineering Department's determination of an adequate level of service for a specific roadway. Mr. Wilkinson stated that technically the Planning Commission could disagree and the developer could appeal their decision. There was a brief discussion regarding the differences in levels of services inside and outside the Urban Growth Area and issues concerning of the number of driveways entering certain roadways. Mr. McGee stated that the County has developed policies that limit the number of driveways accessing a roadway, the spacing of driveways along certain roads and realizing that the more driveways you have the more you are interfering with the flow of traffic and the more adverse it is to public safety and efficient traffic operations. There was a brief discussion regarding the timing of receiving information in relation to traffic related issues and road adequacy.

B. Driveway Grades / Emergency Access

Mr. McGee began the discussion by giving a brief overview for addressing standards for driveways. Most standards only address the issue of immediate connection to the roadway for getting vehicles off the road and onto the road as efficiently and safely as possible. This connection area is commonly known as the "landing area". The "landing area" should be a relatively flat area adjacent to the road surface where a vehicle can safely stop when approaching the road or a vehicle can turn into this area without an abrupt grade to slow your vehicle down and impede traffic. Transitioning from the area just beyond the "landing area" also needs to be considered from an emergency vehicle standpoint. The grade of the driveway should include consideration of drainage and a vehicle's ability to traverse the grades you are dealing with and should be influenced by the type of construction materials being used for the driveway. Mr. McGee stated that Washington County does not currently have an adopted standard for driveways; however, the Engineering Department uses a maximum of a 15% grade or less. Maximum roadway grades are set at a 15% grade (15-feet of elevation on a 100-foot run). The maintenance of driveways with steep grades directly affects how well the driveway functions. Immediate concerns for the County are drainage issues associated with steep driveways that dump water onto the roadways and cause gravel and mud to wash out onto the road, icing issues, etc. Storm water management and detailed grading plans are now required for long driveways to address drainage and storm water management issues. Mr. McGee noted that the Engineering Department is in the process of writing specific standards for driveways.

Mr. John Latimer, Director of Emergency Services, stated that his Department follows the National Fire Protection Association standard for the protection of life and property from wildfires, which deals with urban areas. The NFPA standards recommend unobstructed widths of 20-feet, 13.5 feet of vertical clearance, and a maximum 10% grade. Centerline distances, cul-de-sacs, turnouts, turnarounds, and anything greater than 300-feet can be detrimental in establishing a sustainable water supply when dealing with fire suppression. Mr. Latimer expressed his concern for emergency personnel and equipment costs when dealing with less than desirable roadway and driveway situations.

Discussion: Mr. Anikis expressed his concern regarding safety issues for emergency personnel and homeowners. Mr. Reiber expressed his concern regarding the width and length of driveways to provide adequate access for emergency vehicles. Mr. Kercheval suggested that a formal study could be prepared taking into consideration grades, design, etc. and could serve as a pass or fail system. Ms. Baker stated that we currently have a policy in the APFO regarding fire protection; however, it only pertains to commercial development. A brief discussion followed regarding a variety of standards for different situations in urban versus rural areas. Commission members requested Staff to begin working on standards to be incorporated into Section 8 of the APFO for review at a future workshop meeting. Mr. Moser expressed his concern regarding recommendations that previously were made by fire departments and were ignored during the approval process.

C. Zoning Procedures – Text Amendments

Mr. Thompson began the discussion regarding proposed changes to procedures for filing a zoning text amendment. He distributed copies of the application and filing procedures that are currently being used. Mr. Thompson recommended the following changes to the filing process:

- Completed application form and payment of appropriate fees
- Verification of ownership with a copy of a deed or copy of contract purchaser agreement

- Boundary description – metes and bounds description prepared by a licensed surveyor showing what is being proposed in the request
- A list of adjoining property owners
- A vicinity map showing the area within at least 1,000-feet of the growth area and ½ mile in a rural area showing all the existing zoning classifications and the designated neighborhood as proposed by the applicant
- A written justification, providing the request is a reclassification, and explaining the change or mistake explaining what the applicant wants to do and why it should be rezoned

Mr. Thompson believes this information should be provided prior to the public hearing to better prepare the Planning Commission members and BOCC to ask questions during the public hearing. He also recommends provisions for the Zoning Administrator to reject an application if it is incomplete. Mr. Thompson noted there are additional items that will need to be addressed as a complete review is done.

Discussion: Ms. Anikis expressed his opinion that he does not want Staff to make their recommendation prior to the public hearing because additional information might be presented by the applicant or his representative and also there would be public comment to consider. He supports Staff's recommendation to require more information prior to the public hearing. Mr. Kercheval suggested there might be the need to "table" an item depending upon the amount of information presented during the public hearing. There was a brief discussion regarding the additional information that should be provided and changes to the public hearing process. Mr. Anikis recommended that historic structures should be identified in the application packet. He also recommended a freeze on rezoning requests during the urban rezoning update process. Mr. Thompson stated that the Board of County Commissioners could temporarily stop rezoning requests during the process and provide a special waiver for a request to be considered independently from the process. Mr. Thompson stated he would present the proposed changes to the Board of County Commissioners and request their suggestions and comments.

D. Rural Village District Revisions

Mr. Thompson distributed copies of Article 5 – "RV" *Rural Village District*, as it is currently defined in the Zoning Ordinance. He stated there are several definitions within this article that need clarification or changes. The inclusion of specific design criteria and restrictions could be discussed. Mr. Thompson noted that changes to Priority Funding Areas are being discussed during legislative hearings in Annapolis and the TDR consultant's preliminary report recommended developing areas in and around the Rural Villages. Both of these factors could have a major impact on proposed changes.

Discussion: Mr. Reiber expressed his concern that our Rural Village regulations do not parallel the State's and could prohibit the County from receiving funding for necessary utilities in these areas. Mr. Anikis stated that Rural Villages were designed by the State of Maryland to help rural counties to identify villages or towns that were on septic and well. The Smart Growth Act identified areas for growth and areas that had well and septic. Once the areas were identified, the Act stated that if there were a problem in the future with bad water and failing septic systems and specific guidelines are met, the State would fund or help fund a community system. Washington County identified approximately 50 areas that were known as Priority Funding Areas. The Act discouraged building in and around these PFA's and encouraged building where infrastructure is available. When the rural villages were created, additional acreage was included in the Rural Villages to protect new development. The Smart Growth Act indicates, "*limited peripheral development that is contiguous to an existing community and does not increase the size of the existing community or Village by more than 10% of the existing number of dwelling units*". There was a brief discussion relative to who would receive the 10% for new development and how the Act could be interpreted in different ways. Mr. Thompson suggested a meeting with the State to discuss questions and concerns and clarification of some of the language related to the Smart Growth Act. Mr. Reiber expressed his concern about following the State's guidelines for communities that might need help in the future with water and sewer services.

E. Family Member Exclusions

Mr. Thompson began the discussion regarding the creation of subdivision lots without road frontage solely for family members as outlined in the Subdivision Ordinance. He noted that the County is not able to enforce these provisions and lots are being sold to persons who are not family members. Mr. Thompson believes the County should eliminate these provisions; however, landowners could make an appeal to the Board of Zoning Appeals to grant an exception. There was a brief discussion regarding specific criteria that could be eliminated or added to the provision such as a deeded right-of-way. Ms. Baker stated there are three instances when a family member exemption is used:

- 1) Forest Conservation – 5 year exemption: If the owner tries to get out of the exemption prior to the five year anniversary, the County can require mitigation;
- 2) Road Widths – 5 year exemption: If the owner tries to sell the property prior to the five year anniversary, the County can require the owner to widen the road.

- 3) Lots without road frontage – 10 year exemption: If the owner tries to sell the property prior to the ten year anniversary, the County has no way to mitigate for improvements.

Planning Commission members requested additional information prior to making any decisions to eliminate or retain the family member exemptions.

Other Business

Mr. Anikis provided a brief overview regarding information he received from Dave Barnhart of the Health Department regarding failed wells and septic systems. He reported there were 106 permitted septic repairs and 17 well replacements in 2006. Mr. Anikis would like to see a chart representing the areas where these failures have occurred. The Health Department identified two areas where contaminated wells were reported, one in Boonsboro and one in Cearfoss. Mr. Kercheval stated that the reasons for failures should be indicated since there are many variables that could cause a system to fail.

ADJOURNMENT

Mr. Moser made a motion to adjourn the meeting at 4:15 p.m. Seconded by Mr. Reiber. So ordered.

Respectfully submitted,

George Anikis, Chairman