

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – AUGUST 6, 2007**

The Washington County Planning Commission held its regular meeting on Monday, August 6, 2007, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Linda Parrish, Bernard Moser, 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 Misty Wagner-Grillo, Planner Sara Edelman, Environmental and Parks Planner Bill Stachoviak, and Administrative Assistant Debra Eckard.

CALL TO ORDER

Chairman George Anikis called the meeting to order at 7:00 p.m.

Mr. Thompson announced the following changes to the Agenda. The variance for Herbert Campbell (SV-07-002) has been postponed until further notice. A site plan for Antietam Storage Solutions (SP-07-034), a designated "fast-track" project has been added to this evening's Agenda.

MINUTES

Ms. Parrish made a motion to approve the minutes of the May 30, 2007 Planning Commission Workshop meeting as amended. Seconded by Mr. Moser. Unanimously approved.

Ms. Parrish made a motion to approve the minutes of the July 9, 2007 Regular Planning Commission meeting as amended. Seconded by Mr. Wiley. Unanimously approved.

NEW BUSINESS

- PRELIMINARY CONSULTATIONS

John A. Horst, Lots 6-11 (PC-07-003)

Ms. Edelman presented for review and comment the preliminary consultation for John A. Horst, Lots 6-11. The property is located along the east side of Ashton Road and the north side of Big Pool Road and is zoned A(R) – Agricultural Rural. The developer is proposing to subdivide six lots on 119-acres. The total subdivision potential for the future of this parcel is 28 lots. Four lots were previously approved. No future plans are known at this time. The Planning Staff and Engineering Department recommend the use of common entrances and shared driveways. The area between Lots 6 and 7 is 200-feet, that could be used as a road to accommodate future plans for the remaining lands. The State Highway Administration would require all lots to access Ashton Road. The Engineering Department stated that sight distance must be maintained between Route 56 and Lot 11. A sight distance worksheet would be required when the Preliminary Plat is submitted. The Health Department requested all house and well locations to be shown on the Preliminary Plat. Lot 11 must have a sand-mound system. The Washington County Engineering Department expressed concerns regarding storm water management issues. The road must be a minimum of 18-feet in width to address all storm water management. The front yards should contain adequate area to address storm water management concerns. An APFO mitigation agreement for schools would be required.

Discussion: There was a discussion regarding the APFO mitigation for schools. Mr. Kercheval stated that any subdivision over 5 lots is subject to APFO school mitigation based on school capacity at final plat approval. Mr. Moser expressed his concern regarding lots fronting on Maryland Route 56 and recommended that an interior road network should serve future lots on the remaining lands. No action required.

- SITE PLANS

Jeff Hurd (SP-07-024)

Ms. Wagner-Grillo presented for review and approval the site plan for Jeff Hurd for property located on Camden Road in Williamsport. The owner is proposing a moderate volume mineral extraction operation for shale on 44.13-acres. The property is zoned EC – Environmental Conservation. A special exception was granted by the Board of Zoning Appeals on January 17, 2007 to allow a moderate volume mineral extraction for shale. The disturbed area is less than one acre. During the appeal case, Mr. Hurd stated that the extraction yield is not really shale, but is more like fill dirt. A memo dated July 12, 2007 from the MDE's Minerals, Oil and Gas Division stated they have all the required information from Mr. Hurd and are waiting on site plan approval to issue a permit. All agency approvals have been received. The IM – Industrial Mineral section of the Zoning Ordinance was used by Staff when reviewing the site plan. A minimum 8-foot high fence is required; however, Mr. Hurd is requesting a waiver from this requirement. Photographs were provided by Mr. Adam Hager of Frederick, Seibert & Associates, consultant. Ms. Wagner-Grillo presented a list of conditions recommended by Mr. Haberkorn, Mr. Hurd's neighbor.

Comments: Mr. Moser expressed his concern regarding the waiver of the fence due to safety issues. Mr. Anikis shares Mr. Moser's concern. Mr. Anikis stated that the Planning Commission cannot address Mr. Haberkorn's list of conditions unless there is a violation of the IM zoning district requirements.

Discussion: Mr. Anikis asked if the driveway gets watered down to reduce the amount of dust. Mr. Hurd stated that he does water down the driveway, as necessary. Mr. Anikis asked if the County would be liable if an accident occurred because the Planning Commission waived the fence requirement. Ms. Wagner-Grillo stated she made an inquiry to the County Attorney's office regarding this issue and she was told the County could not be held liable. There was a discussion regarding the depth of the excavated area.

Motion and Vote: Mr. Wiley made a motion to approve the site plan as presented. Seconded by Mr. Ecker. Unanimously approved.

Motion and Vote: Mr. Ecker made a motion to waive the fence requirement if a 4:1 slope is maintained as presented on the site plan.

Discussion: Members discussed the slope and how it would be maintained and enforcement issues. Several members expressed their concern regarding safety issues.

Vote: Mr. Ecker's motion failed due to the lack of a second to the motion.

Motion and Vote: Ms. Parrish made a motion to deny the 8-foot high fencing requirement waiver. Seconded by Mr. Moser.

Discussion: Mr. Kercheval noted that required fencing around storm water management ponds is less than 8-feet in height. Members discussed adjusting the height of the fence.

Amended Motion: Ms. Parrish amended her motion to deny the 8-foot high fencing requirement and to require a 6-foot high fence. Seconded by Mr. Moser. The motion passed with Ms. Parrish, Mr. Moser, Mr. Wiley and Mr. Ecker voting "Aye" and Mr. Kercheval voting "Nay".

Rehoboth United Methodist Church (SP-07-011)

Ms. Wagner-Grillo presented for review and approval a site plan for the Rehoboth United Methodist Church. The property is located at the southeast corner of Route 68 and Downsville Pike and is zoned A(R) – Agricultural Rural. The applicant is proposing a 44,000-square foot church and day care center on 105.04-acres. There will be 15 full-time and part-time employees. The hours of operation will be 6:30 a.m. to 10:00 p.m. daily with services being held on Sundays from 7:30 a.m. to 12:30 p.m. and Wednesdays from 5:00 p.m. to 8:00 p.m. A 300-square foot sign is proposed. Pole-mounted lighting is proposed. An appeal was granted by the Board of Zoning Appeals for a special exception to establish a day care facility in a proposed church. Landscaping will be provided around the drop-off area. Private water and public sewer by the Washington County Department of Water Quality would serve the site. Parking required is 120 spaces and parking provided will be 263 spaces. The Williamsport Fire and Rescue Departments would serve the site. Forest Conservation Ordinance requirements would be met by a mixture of on-site retention of 1.09-acres and planting of 1.30-acres. The Church has future plans for development of this site. Their consultant, Fox & Associates, Inc., has calculated that they will need to set aside 25% of the property to be forested. The Church is requesting a waiver from the entire requirement of 23.92-acres of forest mitigation to a proposed 4.89-acres.

Comments: Mr. Moser expressed his concern regarding the waiver from the Forest Conservation requirement because of the intense development previously proposed for the site. He also expressed concern regarding the size of the proposed sign. Mr. Kercheval asked if the Planning Commission has the ability to waive the Forest Conservation requirements. Ms. Wagner-Grillo stated that Article 15 of the Forest Conservation Ordinance allows a **variance** from the requirements. Mr. Anikis stated he could not find any provisions in the Ordinance that allows the Planning Commission to grant a waiver of the requirements. Mr. Moser recommended tabling the Forest Conservation requirement for the remainder of the property until a plan is submitted for the proposed development of the entire site. Mr. Anikis expressed his concern regarding the size of the proposed sign. He noted that other churches within close proximity to the proposed church have much smaller, tastefully designed signs probably less than 35-square feet in size. Mr. Anikis recommended reconsideration of the size of the proposed sign. He also recommended a site plan showing all proposed development for the site. Mr. Barnes of Fox & Associates, Inc., consultant, stated there is approximately only 5 to 6 acres of forest currently on the site. The Church's vision was to create an open space complex for family-oriented activities. He stated that there are wetland areas and stream buffers located on the property that would be planted for protection. Mr. Kercheval does not believe the Forest Conservation requirement should be waived and the Church should explore off-site retention or the payment-in-lieu options as described in the Forest Conservation Ordinance and recommended tabling this issue.

Motion and Vote: Mr. Moser made a motion to approve the site plan as presented with the Forest Conservation Plan for on-site retention of 1.09 acres and planting of 1.30 acres and to table the request to waive the 23.92 acres of Forest Conservation mitigation requirements until future plans are submitted for the remaining lands. Seconded by Ms. Parrish. Unanimously approved.

Valley Assembly of God (SP-07-033)

Ms. Wagner-Grillo (on behalf of Ms. Lisa Kelly) presented for review and approval a site plan for Valley Assembly of God located on the north side of York Road just west of the intersection of Halfway Boulevard. The applicant is proposing to construct an 11,000 square foot addition to an existing church

on 2.53 acres zoned RU – Residential Urban. The proposed addition would be used as a multi-purpose room. Existing access to the Church is from York Road and no new access is planned. Public water and sewer would serve the site. Hours of operation will be Sunday from 9:00 a.m. to 12:00 noon and 6:00 p.m. to 8:00 p.m. and Wednesdays from 7:00 p.m. to 9:00 p.m. Required parking is 80 spaces and 85 spaces would be provided. Lighting would be building-mounted. There is an existing dumpster. Daily deliveries are proposed. Seating capacity is 400 seats. There is no new landscaping proposed. The site is exempt from Forest Conservation requirements because less than 40,000 square feet of area would be disturbed. Storm water management is provided by bio-retention areas and has previously been approved. All agencies approvals have been received.

Motion and Vote: Mr. Kercheval made a motion to approve the site plan as presented. Seconded by Mr. Moser. Unanimously approved.

Antietam Storage Solutions (SP-07-034)

Mr. Thompson (on behalf of Ms. Lisa Kelly) presented for review and approval the designated “fast-track” site plan for Antietam Storage Solutions located along the eastern side of Industrial Lane, east of Governor Lane Boulevard. The site is 12.8-acres and is zoned PI – Planned Industrial. The site consists of a main building including an office and warehouse, storage for boats and RV’s, document storage, a flex warehouse building, and future build-out area. The applicant has been working with the County to improve the end of the cul-de-sac. Final approval from the addressing department and calculations for water and sewer allocations from the Health Department are pending. All other agency approvals have been received.

Motion and Vote: Mr. Moser made a motion to approve the site plan contingent upon all agency approvals. Seconded by Ms. Parrish. Unanimously approved.

- FOREST CONSERVATION

Jon Henson (SP-05-056)

Mr. Thompson (on behalf of Ms. Lisa Kelly) presented for review and approval a revised Forest Conservation Plan for property located at 14032 Fairview Road. Mr. Thompson noted that the original Forest Conservation Plan met and exceeded all the requirements of the Forest Conservation requirements at the time it was approved. During a site visit in May 2007 by Mr. Bill Stachoviak, Washington County Environmental Planner, it was discovered that 1.60 acres of trees planted were non-native and were not as specified on the approved Forest Conservation Plan plant list and the .68 acres of forest proposed for retention had been cleared. A certified letter was sent to Mr. Henson listing the violations and specifying the corrective measures that must be taken within 30 days that included: payment of penalty for removing trees in the amount of \$8,886.00; posting of required signage; extension of surety bond for two more years; and submittal of an amended Forest Conservation Plan showing the existing trees planted and a list of native trees for replacement at the destroyed retention area. Frederick, Seibert & Associates, Mr. Henson’s consultant, contacted the Planning Department immediately to resolve the issue. A revised Forest Conservation Plan showing the amended afforestation area with the non-native trees and the proposed clearing area of .68 acres; however, no response has been received from Mr. Henson regarding the violation letter and the terms he intends to meet. Mr. Thompson explained that the planted trees are mature and Staff is not recommending removal of the trees; however, Staff wants to be assured that the trees would be maintained on the site. Staff is requesting approval of the revised Forest Conservation Plan that complies with the Ordinance, and the fine to be assessed for non-compliance of the original approved plan.

Discussion: Mr. Stachoviak stated that the .68 acres of retention area shown on the original plan was classified as Class III or low priority forest. Mr. Moser asked if the owner gave any reason why the forest was cleared. Mr. Schreiber of Frederick, Seibert & Associates stated that the cleared area was a rock outcropping filled with trees and underbrush and the owners discovered a lot of snakes in the area and cleared the forest for safety reasons. He also stated that the retention area was calculated using the entire 11-acre parcel, not only the 3 acres of disturbed area. Mr. Stachoviak stated that all plantings were done without notification to the Planning Department, as required.

Comments: Mr. Moser expressed his concern that the owner did not adhere to the approved plan and that changes could have been made in advance. Mr. Kercheval believes that by planting more trees than required, the owner is helping the County from an environmental standpoint. Mr. Anikis expressed his concern that the owner did not follow the approved plan. Mr. Thompson expressed his concern that the Forest Conservation Plan was changed without Staff’s knowledge and approval and believes the non-compliance fee could be modified but should not be waived in its entirety. Mr. Anikis concurred with Mr. Thompson’s comments and shared his concern that the owner was not present at the meeting to explain his actions. Ms. Parrish noted that the owner planted more trees than required; however, there should be a modified payment of the non-compliance fee for the violation. Mr. Wiley concurred with Ms. Parrish’s comments.

Motion and Vote: Mr. Ecker made a motion to approve the revised Forest Conservation Plan as submitted. Seconded by Ms. Parrish. Unanimously approved.

Motion and Vote: Ms. Parrish made a motion to modify the penalty from \$8,886.00 to \$1,000.00, to require an extension of the surety bond for an additional two years, and posting of the required signage.

Seconded by Mr. Moser. The motion passed with Ms. Parrish, Mr. Moser, Mr. Ecker and Mr. Wiley voting "Aye" and Mr. Kercheval voting "Nay".

Proposed Text Amendments to the Forest Conservation Ordinance

Mr. Stachoviak presented for review several of the proposed Text Amendments to the Forest Conservation Ordinance that will be presented at public hearing on September 17, 2007. The first proposed change is to Section 3.2 (the exemption section) to be amended as follows: The declaration of intent for transfer to a non-family member is extended from five years to ten years, for consistency with the Subdivision Ordinance. Declarations of intent for residential construction, agricultural activities, and timber harvesting are also proposed for extension from 5 years to 10 years for consistency. A change in Article 3 and 16 regarding the fee for non-compliance is proposed. The fee has not changed since the Ordinance was adopted 14 years ago. The non-compliance fee is proposed to be changed from \$.30 per square foot to \$1.00 per square foot. This is proposed to have more deterrence effect and is consistent with the Frederick County FRO non-compliance fee.

Discussion: There was a brief discussion regarding the proposed \$1.00 per square foot fee. Mr. Thompson noted that Frederick County's Ordinance allows a fee up to \$1.00 per square foot; however, he believes that a flat rate would be more consistent and easier to enforce. Mr. Kercheval believes the \$1.00 per square foot might be an excessive amount. Mr. Ecker concurred with Mr. Kercheval's comment. By consensus, the Planning Commission requested wording in the Ordinance that allows them to modify the fee on a case-by-case basis.

Mr. Stachoviak stated the Forest Conservation Technical Manual provides guidance and criteria for three levels of Forest Stand Delineations – Full, Intermediate and Simplified. The County's Ordinance does not recognize the three levels of delineation and has caused conflict and confusion when the consultants submit plans. Therefore, Staff is proposing a change to the Ordinance stating, "Intermediate delineations are NOT recognized" and provides specific requirements for the Full and Simplified delineations. Article 11 deals with the payment in lieu of planting and has not been changed since the FCO was adopted 14 years ago. Staff is proposing the payment-in-lieu fee to be changed from \$.10 per square foot to \$.30 per square foot to increase money in the Forest Conservation Fund.

Discussion: Mr. Kercheval requested a cost breakdown to determine the money that has been collected, the cost for planting, how much is being spent per square foot, etc. He expressed his concern that most of the payment-in-lieu funds are received from commercial development and this would add to the cost for economic development in the County. Mr. Thompson stated that Mr. Weibley of the Soil Conservation District expressed his concern that the County does not have the funds to purchase easements. Mr. Stachoviak also noted that maintenance of the easements increases the cost.

To help streamline administration, Article 11 is also proposed to be changed so that after a certain period, unused Forest Conservation Funds are no longer required to be returned. The surety article is proposed to be amended by requiring a 15% contingency be added to the surety amount to encourage quality planting and improved maintenance during the 2-year period. All of the changes have been reviewed by the DNR Regional and State Forest Conservation Program Coordinators and they have found all proposed changes to be acceptable. Mr. Thompson noted that all the proposed changes have been sent to consultants and the County Attorney's Office for their review and comments.

UGA Advisory Committee

Mr. Thompson announced that the UGA Advisory Committee met for the first time on August 26, 2007. Subcommittees are being formed for the following areas: Housing, TDR's and Incentives. Two public information meetings have been scheduled on August 16, 2007, 7:00 p.m. at the Hagerstown Community College and on August 28, 2007, 7:00 p.m. at the Williamsport High School. Discussions would focus on zoning issues. The next meeting of the UGA Advisory Committee is scheduled for Thursday, August 9, 2007 at 9:00 a.m.. Meeting minutes will be forwarded to the Planning Commission as they become available.

UPCOMING MEETINGS

1. Regular Planning Commission meeting, Monday, September 10, 2007, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1
2. Joint Rezoning Hearing, Monday, September 17, 2007, 7:00 p.m., Washington County Court House, Room 1, 95 W. Washington Street

ADJOURNMENT

Ms. Parrish made a motion to adjourn the meeting at 9:20 p.m. Seconded by Mr. Moser. So ordered.

Respectfully submitted,

George Anikis, Chairman

