

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – SEPTEMBER 10, 2007**

The Washington County Planning Commission held its regular meeting on Monday, September 10, 2007, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Linda Parrish, Bernard Moser, Terry Reiber, Clint Wiley and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planners Misty Wagner-Grillo and Lisa A. Kelly, Planner Sara Edelman, 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 change to the Agenda. A third annexation request from the Town of Smithsburg has been added to this evening's Agenda.

MINUTES

Mr. Moser made a motion to approve the minutes of the August 6, 2007 Regular Planning Commission meeting as presented. Seconded by Ms. Parrish. Mr. Reiber abstained. Unanimously approved.

NEW BUSINESS

- VARIANCES

James Edward Artz, Lot 4 (S-07-071)

Ms. Edelman presented for review and approval a variance from the 50-foot Agricultural Land use setback for property located along the east side of Bakersville Road. Section 5A.5 of the Zoning Ordinance requires a 50-foot agricultural land use setback from adjacent parcels; however, the Planning Commission may modify the requirement at the applicant's request. The 50-foot agricultural use setback waiver would pertain to the southern side yard lot line beside the existing gravel lane. The applicant is requesting that the 50-foot setback be waived in favor of the customary 15-foot side yard setback. Staff has no objection to the request.

Discussion: Mr. Reiber asked the width of the existing farm lane. Mr. Artz's son was present at the meeting and stated that the farm lane is approximately 12 to 15 feet in width. Mr. Anikis asked what the owner plans for the remaining lands. Mr. Artz stated there are no plans to develop the property. The reason for the request is to eliminate "dead space" between property lines. Mr. Kercheval asked if a 25-foot setback would allow sufficient space for the proposed house. After reviewing the plans, he believes that a 25-foot setback would allow for an adequate buffer and would provide adequate space even for a large house on the property. Mr. Artz stated they would be agreeable to the 25-foot setback if the house can still be situated on the lot.

Motion and Vote: Mr. Kercheval made a motion to reduce the required 50-foot agricultural land use setback to a 25-foot side yard setback on the south side of the lot. Seconded by Mr. Reiber. Unanimously approved.

William Reams (S-05-107)

Ms. Wagner-Grillo presented for review and approval a variance from the 2-year plat recordation requirement of the Washington County Subdivision Ordinance. In October 2005, the Planning Department approved a preliminary/final plat for William Reams for property located along Geeting Road in Keedysville. In a letter from Fox & Associates, Inc., Mr. Reams' consultant, the plat was not recorded because the owner had issues with a pending sale and did not want to change the tax structures on the previously approved Lot 1. He continues to work with a potential buyer and is requesting a one year extension to record the approved plat. Staff recommends approval of the one year plat recordation extension.

Motion and Vote: Mr. Reiber made a motion to approve the one-year plat recordation extension. Seconded by Ms. Parrish. Unanimously approved.

Patty Blair (SV-07-022)

Ms. Wagner-Grillo presented for review and approval a variance from Section 405.11.G of the Subdivision Ordinance to allow 6 panhandles within an original parcel and 3 panhandles greater than 400-feet in length. The property is located along the east side of Big Pool Road (Maryland Route 56) at the intersection of Gehr Road and is zoned EC – Environmental Conservation. Proposed Lot 1 would contain a panhandle 430-feet in length; proposed Lot 2 would contain a panhandle 490-feet in length; proposed Lot 6 would contain a panhandle 440-feet in length; and the remainder would contain a panhandle 425-feet in length.

Discussion: Mr. Anikis expressed his concern regarding parking and spillover onto Big Pool Road. He also asked how many participants would be using the proposed paintball fields at one time. Ms. Blair

stated if the panhandle variance is granted, parking would be allowed along the panhandle for the 50+ acres and a parking lot between the paint ball fields and the panhandle is proposed. Ms. Wagner-Grillo stated that a site plan would be required showing the proposed parking. Ms. Parrish asked if there is any concern regarding the paint entering the water resources. Ms. Blair stated that several studies have been done and found that the paint is biodegradable and environmentally safe. The ponds would be netted to keep paint balls from entering the ponds and specific sites would be established for paint ball usage. Mr. Moser asked for Staff opinions. Ms. Wagner-Grillo stated there are several issues that would need to be addressed prior to submittal of the site plan; however, Staff would recommend approval of the variances requested.

Motion and Vote: Mr. Kercheval made a motion to approve the variance for the 6 panhandles within the original parcel and to approve the panhandles greater than 400-feet in length. Seconded by Mr. Reiber. The motion passed with Mr. Kercheval, Mr. Reiber, Mr. Wiley and Ms. Parrish voting "Aye" and Mr. Moser voting "Nay".

Clarification: Mr. Reiber asked if the Planning Commission would receive further reports on this project. Mr. Wagner-Grillo stated that Staff would approve the subdivision plat; however, the site plan would be presented to the Planning Commission for approval.

- PRELIMINARY CONSULTATIONS

Patty Blair (PC-07-004)

Ms. Wagner-Grillo presented for review and comment a preliminary consultation for Patty Blair for property located along the east side of Big Pool Road (Maryland Route 56) at the intersection of Gehr Road. A large portion of the property is zoned EC – Environmental Conservation and a 3.12-acre portion zoned RB-E – Rural Business Existing. The owner is proposing to subdivide 5 residential lots and 1 existing business lot that previously contained a tree-farm business in the existing house. The owner is proposing paint ball and air ball fields that would be operated on the existing RB-E parcel and the remaining lands which are zoned EC. A recreation facility is not a permitted use in the EC district; therefore a special exception would be required from the Board of Zoning Appeals. Two concept plans were presented at the preliminary consultation. The first plan proposed a cul-de-sac to serve Lots 5, 6, the business and the remaining lands. The second plan proposed a multiple panhandle configuration. Following the consultation, Ms. Blair chose the panhandle concept due to financial reasons and no agencies had any objections to the panhandle configuration. Representatives from the Washington County Health Department, Engineering Department and Permits and Inspections Department were present at the consultation and presented their comments. The State Highway Administration presented verbal comments to the Planning Department staff prior to the consultation.

Comment: Mr. Kercheval stated that parking issues need to be addressed and buffering between the residential and commercial areas (paint ball fields) is recommended.

- SITE PLANS

Homewood at Williamsport (SP-07-036)

Ms. Wagner-Grillo presented for review and approval a site plan for Homewood at Williamsport located along the southwest corner of US Route 11 and Governor Lane Boulevard. The developer is proposing to demolish the existing 65,616 square foot administration building and existing nursing home and construct a new 71,957 square-foot nursing home building. The existing facility contains 126 independent living cottages, 109 assisted/independent living apartments and 123 nursing home beds. The existing building containing 123 nursing home beds is proposed for demolition. The new proposed building would contain 80 nursing home beds. The City of Hagerstown will provide water service and the Washington County Department of Water Quality will provide sewer service. An existing storm water management pond would serve the facility. An on-site dumpster and compacter will provide solid waste disposal. The Halfway Fire Department and Williamsport Ambulance would serve the facility. Parking spaces required is 478 spaces and 486 spaces would be provided. The existing sign will be relocated and lighting will be pole and building-mounted. A mixture of landscaping is proposed along US Route 11, the parking areas and along the new nursing home building. Forest Conservation Ordinance requirements would be met using the "express procedure". Payment in the amount of \$4,094.60 would be deposited in the Washington County Forest Conservation Fund. All agency approvals have been received.

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

Golden Corral (SP-07-030)

Ms. Kelly presented for review and approval a site plan for the Golden Corral restaurant located on an out-parcel at the Valley Mall on the north side of Cole Road. The parcel is zoned PB – Planned Business. The developer is proposing to construct an 11,600-square foot restaurant on 2.26 acre out-parcel. Access to the site would be by two interior travel lanes within the Valley Mall complex. There will be a lease agreement between the Valley Mall and the developer. The site will be served by water from the City of Hagerstown and sewer from the Washington County Department of Water Quality. The hours of operation will be 11:00 a.m. to 10:00 p.m. Monday through Friday and 7:30 a.m. to 10:00 p.m. Saturday and Sunday. The average daily customer rate is estimated to be approximately 1,000 customers per day. Parking required is 100 spaces and 170 spaces are provided. Parking for the restaurant will not affect parking spaces required for the Valley Mall. Lighting will be provided by 33-foot pole mounted lights throughout the parking area and small building mounted lights will also be used. There will be two

building mounted signs along the front of the restaurant and a free-standing sign will be located at the eastern-most entrance off of Cole Road. An enclosed dumpster will be provided for solid waste disposal located adjacent to the building. Freight and delivery will be one tractor-trailer three times per week during the a.m. hours. A loading and unloading area will be provided adjacent to the dumpster. Landscaping will be provided along the perimeter of the building and parking area. The Planning Commission approved the payment-in-lieu for this site in July 1998 in order to meet the Forest Conservation requirements. In 1998, the Board of Zoning Appeals granted a variance on all parking spaces for the Valley Mall from the required 20-foot width to an 18-foot width and access aisles from 25-feet to 24-feet. In 1999, the Board of Zoning Appeals granted a variance from the required 20-foot setback requirement from a public street right-of-way to off-street parking areas in the Planned Business district. Approvals are pending from the City of Hagerstown Water Department and the Washington County Health Department. All other agency approvals have been received.

Discussion: Mr. Reiber expressed his concern regarding the amount of traffic being generated by additional businesses in the Valley Mall area. Mr. Kercheval explained that an agreement was made with the Valley Mall developer many years ago regarding future road improvements that might be needed and a specified amount of money was given to the County for these improvements. The agreement also included the undeveloped out-parcels. Mr. Lung stated that an overall concept plan has been developed that shows the out-parcels and was modified when Hekbel developed the Target complex. The Target complex predicated the rebuilding of Cole Road and the funding for the Massey Boulevard improvements. Mr. Kercheval stated that a traffic study was done for this area and it showed that the roads in the area could handle the traffic.

Mr. Anikis recommended a crosswalk between the Country Inn and the restaurant. Mr. Reichenbaugh, of Associated Engineering Sciences, the developer's consultant, stated they would review the plan and try to incorporate a sidewalk and crosswalk. He also stated that the City of Hagerstown Water Department has approved the pre-annexation agreement for the restaurant.

Motion and Vote: Mr. Moser made a motion to approve the site plan with the addition of the sidewalk and crosswalk for pedestrian traffic. Seconded by Mr. Reiber. Unanimously approved.

OTHER BUSINESS

Town of Smithsburg Annexation – Smith property

Mr. Thompson presented for review and recommendation an annexation request from the Town of Smithsburg for the John Smith property (2.38 acres) located along the east side of Stevenson Road. The property is currently developed with a single-family dwelling and the applicant proposes to subdivide the property into two single-family lots. The applicant is requesting SR (Suburban Residential) zoning upon annexation under the Town of Smithsburg Zoning Ordinance which allows for single-family dwellings with a minimum lot size of 15,000-square feet. The property is currently zoned RR (Rural Residential) under the Washington County Zoning Ordinance which allows for duplexes and semi-detached units and a minimum lot size of 20,000-square feet. Staff believes the requested zoning to be consistent with the existing County zoning and "express approval" is not necessary. Mr. Thompson requested concurrence of the Planning Commission and a recommendation to the Board of County Commissioners that the request is consistent with the County zoning. Planning Commission members concurred with Staff's recommendation and findings.

Town of Smithsburg Annexation – Cloverly property

Mr. Thompson presented for review and recommendation an annexation request from the Town of Smithsburg for the Cloverly property (62.27 acres) located along the east side of Maryland Route 64, north of Maryland Route 77. The property is currently developed with a single-family dwelling along with a barn and outbuildings and the applicant proposes to subdivide the property in accordance with the designated Town zoning upon annexation. The proposed annexation provides right-of-way to extend the road from the Town to the subject site. In 2005, the property was the subject of a series of requests including a change in the Comprehensive Plan designation, a request to change the zoning of the property, and an amendment to the Water and Sewer Master Plan to provide service to the site to be developed as a residential community. These requests were made after an annexation agreement with the Town of Smithsburg could not be reached. The Town of Smithsburg was opposed to these requests due to several unresolved issues between the Town and the developer including an annexation agreement. The applicant withdrew their requests prior to the Board of County Commissioners taking any action. The Town and the developer have agreed to an annexation agreement.

With the passage of House Bill 1141 in 2006, the standard for annexation review has changed. The emphasis for review has shifted from the Comprehensive Plan to the zoning of the property as follows: "no municipality annexing land may for a period of five years following an annexation permit development of annexed land for land uses substantially different than the use authorized, or at a substantially higher, not to exceed 50% density than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation without the express approval of the Board of County Commissioners or county council of the county in which the municipality is located." It is Staff's position that the proposed development of the property would exceed the 50% density increase since the majority of property is currently zoned EC - Environmental Conservation and A(R) – Agricultural Rural under the Washington County Zoning Ordinance. The applicant is requesting TR (Town Residential) zoning upon annexation under the Town of Smithsburg Zoning Ordinance. The applicant is proposing 70+ units in this development, which equates to less than one acre per unit. It is

Staff's opinion that the request is not consistent with the Washington County Comprehensive Plan or zoning classifications. Mr. Thompson stated that a recommendation of denial would not preclude the annexation of the property; however, it would preclude the property from being developed at a density other than what is allowed under the County's zoning for a period of five years. It is Staff's opinion that the Board of County Commissioners must grant "express approval" for the development to move forward at this time.

Discussion: Mr. Kercheval clarified that the Town of Smithsburg, in 2005, did not want this property to be developed without an annexation agreement. At that time, the BOCC's approach was to support the Town's position. Mr. Moser questioned the annexation of the State road to make the parcel contiguous to the Town. Mr. Anikis questioned the statement in the "Annexation Plan of the Town of Smithsburg" that states, "Both the Washington County, Maryland and the Town's Comprehensive Plans place the land proposed to be annexed in the Town's growth area; both of said jurisdictions also place the land proposed to be annexed in low density residential development in their respective zoning ordinances." He noted that the County's Plan designates part of the property as Environmental Conservation which permits a density of 1:20; therefore, this statement is clearly wrong. Mr. Thompson believes this statement may be due to a difference between the County's Comprehensive Plan and the Town's Comprehensive Plan. Mr. Anikis also questioned the statement, "The subject annexation property already fronts on two public roads"; however, he asked if the property does front on Maryland Route 64. Mr. Thompson believes the property fronts the State right-of-way along Maryland Route 64. He stated there have been discussions with the State Highway Administration to gain access to that road. Mr. Lung stated that the previous owner's of the property had sold access rights to the State Highway Administration. There is an existing residential access that has not been approved as a public street. Mr. Thompson stated that a public hearing is scheduled for September 26th; however, the Town Council and Board of County Commissioners are meeting on September 25th to discuss the proposed annexations. Mr. Kercheval expressed his concern regarding sewer issues in the Town. Mr. Moser questioned the State's position on the annexation request. Mr. Thompson stated he has not received any comments from the State. Mr. Reiber expressed his opinion that it is difficult to make a recommendation without a true understanding of what the Town of Smithsburg wants for its community. Mr. Anikis stated his opinion that the request has not been thought through clearly. There was a brief discussion regarding the State's authority for annexation requests.

Motion and Vote: Mr. Reiber made a motion to recommend to the Board of County Commissioners "express approval" for the annexation of the Cloverly property into the Town of Smithsburg.

Amended Motion: Mr. Reiber amended his motion as follows: The annexation request is not consistent with the County's Comprehensive Plan and recommends that the Board of County Commissioners grant "express approval" for the annexation of the Cloverly property into the Town of Smithsburg per their request.

Comment: Mr. Kercheval recommended that the motion be separated. There should be one motion for consistency/inconsistency with the County's Comprehensive Plan and one motion to recommend that the BOCC should or should not grant "express approval" of the request.

Due to the lack of a second, Mr. Reiber withdrew his previous amended motion.

Motion and Vote: Mr. Moser made a motion to recommend to the Board of County Commissioners that the request is not consistent with the County's Comprehensive Plan. Seconded by Mr. Wiley. Unanimously approved. Mr. Kercheval abstained.

Motion and Vote: Mr. Reiber made a motion to recommend to the Board of County Commissioners that they grant "express approval" of the request based on the Town of Smithsburg Comprehensive Plan. Seconded by Ms. Parrish. The motion failed with Mr. Reiber and Ms. Parrish voting "Aye" and Mr. Moser, Mr. Wiley and Mr. Anikis voting "Nay". Mr. Kercheval abstained.

Comments: Mr. Anikis expressed his opinion that there is a lack of information regarding the request and there are too many inaccuracies in the information that was provided. Ms. Parrish concurred with Mr. Anikis' comments and believes that the Town should have proceeded with the public hearing in order to obtain additional information prior to submitting the request. Mr. Reiber believes that this is what the Town wants and they will need to deal with any consequences of the annexation. Mr. Kercheval recommended tabling the request until further information can be obtained. Mr. Moser expressed his concern regarding the density proposed for the development of this property.

Motion and Vote: Mr. Wiley made a motion to recommend to the Board of the County Commissioners that they deny "express approval" of the request. Seconded by Mr. Moser. The motion passed with Mr. Wiley, Mr. Moser and Mr. Anikis voting "Aye" and Mr. Reiber and Ms. Parrish voting "Nay".

Town of Smithsburg Annexation

Mr. Thompson presented for review and recommendation a request from the Town of Smithsburg to annex 30-acres owned by the City of Hagerstown that contains the Town's water treatment plant. Mr. Thompson stated that a portion of the property is currently zoned Residential Rural and another portion is zoned Conservation under the County's Zoning Ordinance and listed as Community Facilities under the County's Comprehensive Plan. The proposed zoning from the Town's current Zoning Ordinance is General Business. Mr. Thompson stated that based on the information provided and a review of the

proposed zoning; it is Staff's opinion that the Board of County Commissioners must grant "express approval" to the proposed zoning.

Discussion: Mr. Reiber asked if the property has access to a public road. Mr. Thompson stated the only access to the property is by Bishop Lane. The property is currently used as a public utility site. Mr. Thompson expressed his concern regarding the zoning classification proposed by the Town of Smithsburg. He would like additional time to research the request to see if the Town has a more appropriate zoning classification for the property within their Zoning Ordinance.

Motion and Vote: Mr. Reiber made a motion to table the request to allow Staff more time to research the Town's Zoning Ordinance for a more appropriate zoning classification. Seconded by Ms. Parrish. Unanimously approved.

UPCOMING MEETINGS

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

ADJOURNMENT

Mr. Reiber made a motion to adjourn the meeting at 8:50 p.m. So ordered.

Respectfully submitted,

George Anikis, Chairman