

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING – July 7, 2008**

The Washington County Planning Commission held its regular meeting on Monday, July 7, 2008, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown, Maryland.

Members present were: Chairman George Anikis, Linda Parrish, Terry Reiber, Clint Wiley, Sam Ecker and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Tim Lung, and Administrative Assistant Debra Eckard.

**CALL TO ORDER**

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

**MINUTES**

Ms. Parrish made a motion to approve the minutes of the June 2, 2008 regular Planning Commission meeting as amended.. Seconded by Mr. Kercheval. Unanimously approved.

Mr. Kercheval made a motion to approve the minutes of the June 9, 2008 Special Planning Commission meeting as amended. Seconded by Mr. Reiber. Unanimously approved.

**NEW BUSINESS**

**- VARIANCES**

**Ronnie Gray (SV-08-010)**

Mr. Lung presented, on behalf of Misty Wagner-Grillo, a variance request from Subdivision Ordinance Section 405.2.A regarding compliance with the County's Highway Plan for a proposed access location. The site is located along the east side of Harper's Ferry Road at its intersection with Nick Road. The property contains 4.6-acres and is zoned P – Preservation. The applicant is proposing to subdivide one lot from the original parcel, which currently contains an existing dwelling. The Board of Zoning Appeals granted a variance in the density requirements to allow the subdivision in the Preservation district because the original acreage of the tract was large enough to be subdivided based on the exemption lot procedures under the old Conservation zoning. The County's Highway Plan classifies Harper's Ferry Road as a major collector highway, which requires a 300-foot minimum access separation. The proposed access for the new lot is located 65-feet from an existing driveway from the south end of the property owned by others. According to the application, the applicant's hardship is based on safety considerations. The application states, "The subject property has limited frontage on Harper's Ferry Road. Therefore the required 300' spacing cannot be achieved to both Nick Road and the existing private driveway to the south. Nick Road is inadequate making an access to it unacceptable. The location shown is the only place along the limited frontage having adequate safe sight distance". The County Engineering Department indicated that they are not opposed to the variance and the proposed access location would be the safest area along the property for access. Mr. Lung noted based on current zoning, there would be no further subdivision potential for the property unless the Board of Zoning Appeals would grant a variance.

**Discussion:** Mr. Reiber asked for the marking of limits of the 100-year floodplain on the upper portions of the lots. Mr. Bob Bush of Triad Engineering stated that one limit is for FEMA's flood plain boundary per their mapping. The other limit is from the GIS Hybrid Quick 2 Analysis, which is a brief analysis required by the County Engineering Department to confirm FEMA is "within reason" for their mapping. There is a portion of both the new lot and the existing lot that lies within the flood plain. Mr. Bush noted that due to steep slopes, the location of the flood plain, and the inadequacy of Nick Road makes access to Harper's Ferry Road the only viable option for this property.

Mr. Kercheval recommended that as the County puts together a long-term comprehensive road plan, access onto major collector highways should be discouraged.

**Motion and Vote:** Mr. Reiber made a motion to approve the variance request as presented. Seconded by Ms. Parrish. Unanimously approved.

**- PRELIMINARY CONSULTATIONS**

**Richard Showe, Lots 9-12 (PC-08-003)**

Mr. Lung presented, on behalf of Misty Wagner-Grillo, a Preliminary Consultation for Richard Showe, Lots 9-12 for property located in the southeast quadrant of Hicksville Road and Spickler Road. Mr. Lung noted that the Subdivision Ordinance requires that a preliminary consultation be held for any new subdivision resulting in six or more lots since September 8, 1970. The owner is currently proposing to subdivide 4 lots; however, 8 lots were previously created since 1970. The previously created lots are shown on the vicinity map included on the concept plan along with their approval dates. The total property area is approximately 115-acres and is zoned A(R) – Agricultural Rural. Lots 1-6 were created in the 1970's and 1980's, Lot 7 and 8 were created in 2003. Two of the proposed additional lots are designated for immediate family members. The two non-family member lots would have access onto Hicksville Road via a shared drive across two panhandles. The lots designated for immediate family member lots would have access onto a road shown as an existing drive. During the preliminary consultation, it was determined that the drive would not meet the criteria for immediate family member lots in accordance with Subdivision

Ordinance regulations. In accordance with the Subdivision Ordinance, an immediate family member subdivision with lots on a private farm lane must meet specific criteria. One requirement that must be met is the farm lane must serve the existing farmhouse on the property. The proposed subdivision does not meet this requirement. He further explained that Staff has administratively denied the request. The applicant has filed an appeal with the Board of Zoning Appeals in order to establish the two lots with access onto a private lane that does not meet all County Subdivision Ordinance requirements. The lots will be served by individual wells and septic systems. No comments have been received from the Board of Education with regard to school adequacy. However, due to the fact that the previous lots were created prior to January 1, 2004 when the APFO was amended to establish the criteria for a major versus a minor subdivision, the school adequacy criteria for a major subdivision would not apply. Any additional subdivisions would qualify this development as a major subdivision, which would require going through the mitigation process. A Forest Stand Delineation was prepared and indicated no existing forest on the site. According to the preliminary consultation summary, the applicant is proposing the use of "express procedures" to meet the requirements of the Forest Conservation Ordinance. The remaining lands are adjacent to a permanent agricultural district (the Price Farm) and a smaller temporary agricultural district (the Hose Farm). The proposed lots do not directly abut any of the agricultural easement areas.

**Discussion:** Mr. Reiber expressed his concern with regard to the two lots (Lots 11 and 12) that exit onto a shared driveway and maintenance issues in the future. He also expressed concern for access for emergency vehicles. Mr. Lung stated that Lot 11 has a panhandle to the existing private drive and Lot 12 has direct access onto the private drive. He clarified that the intent of the Subdivision Ordinance would have been met for immediate family member lots if the existing private drive was actually the access for the existing farmhouse. However, the existing drive does not access the existing farmhouse and therefore, the two immediate family member lots do not meet the requirements of the Subdivision Ordinance. Mr. Lung stated that language would be required on the plat to absolve the County of any responsibility for maintenance or ownership of the road. Mr. Kercheval made an inquiry with regard to further development on the remaining lands and what type of road network would result in the end. He stated that he would not support approval of this plan because he believes the road network issue could be problematic in the future. He would like to see a design for future development and a proposed road network. Mr. Schreiber stated that Mr. Showe owns the property where the existing drive is located, which goes to Hicksville Road. He noted that the existing drive serves an existing VOR navigational receiver. The Federal Aviation Administration has the right to use the existing drive. Mr. Showe and the FAA jointly maintain the drive. Ms. Parrish expressed her concern that there may be maintenance problems in the future and concurs with Mr. Reiber's comments. Mr. Wiley also expressed his concern that there may be maintenance problems in the future and he would also like to see a plan for future development of the remaining property. Mr. Lung stated that based on previous zoning, the owner would be allowed 5 exemption lots (4 are being used on this concept plan). Based on the current A(R) zoning, 20 density lots may be allowed with 1 remaining exemption lot; therefore, there is the potential for approximately 21 additional lots. Mr. Schreiber stated that further subdivision of the property would require another preliminary consultation. He also noted that a public street would be required for further development. Mr. Kercheval believes that planning for future development would create a more attractive development and would provide better access for emergency vehicles. Mr. Reiber asked if the maintenance agreement for the drive would be recorded in the deeds. Mr. Schreiber stated it would be in the deeds and proof would be submitted to the Planning Department, if necessary, prior to the approval of the subdivision plat. Mr. Anikis recommended a letter should be sent to the Board of Zoning Appeals stating the Planning Commission's opposition with regard to the requested variance.

Mr. Anikis asked how Forest Conservation Ordinance requirements would be met for this property. Mr. Schreiber explained that the immediate family member lots are not subject to requirements of the Forest Conservation Ordinance; therefore, the owner qualifies for the express procedure payment-in-lieu mitigation for the other 2 lots.

#### **Estate of George Horn, Jr. (PC-08-004)**

Mr. Lung presented, on behalf of Lisa A. Kelly, the preliminary consultation for the Estate of George Horn, Jr. located in the southwest quadrant of the intersection of Breathedsville Road and Lappans Roads. The owner is proposing to subdivide six residential lots on 46-acres. The property is primarily zoned A(R) – Agricultural Rural; however, there is a 200-foot deep strip of property zoned RV – Rural Village along the frontage of Lappans Road. Four out of the six lots are located in the RV zoned area. One lot contains an existing dwelling (Labeled as Lot 2 on the concept plan). There is currently a subdivision plat being reviewed by the County Planning Department for this lot (labeled as Lot 1 on the subdivision plat), which contains 4.44-acres. The remaining 5 lots are proposed for new development and each contains approximately 2-acres. Lots 1-4 would access Breathedsville Road, which is classified as a local road. Lot 2, which contains the existing dwelling, has access onto Breathedsville Road, Lot 4 would have a panhandle to Breathedsville Road, Lots 1 and 3 would also have access onto Breathedsville Road, and Lots 5 and 6 would have access onto Maryland Route 68, which is a major collector highway with 300-foot access separation requirements. An entrance location is not shown on the concept plan for Lots 5 and 6; however, it appears that these lots meet the access separation criteria for a shared entrance. Any future subdivision for additional lots, meeting the access separation requirement may become an issue. The State Highway Administration was not present at the consultation and no written comments were received by Staff. The County Engineering Department commented that storm water management would be required and Breathedsville Road must be 16-feet wide. Individual wells and septic systems will serve the lots. The Washington County Health Department commented that the septic systems must be kept 100-feet away from the 3-dot stream shown in the vicinity of Lot 1 and 25-feet from any rock outcrops. A Forest Stand Delineation was approved for the site showing approximately 25-acres of existing forest

primarily located on the remaining lands. A worksheet was not provided; however, the developer has stated that he intends to retain the existing forest to meet Forest Conservation requirements. Under APFO guidelines, this is considered a minor subdivision because only 5 of the lots would be for new development. Therefore, school mitigation is not an issue at this point in time; however, if the remaining lands are developed or there is additional subdivision of the property, APFO guidelines for a major subdivision would apply. The developer indicated there are no plans for additional lots. Determining future development potential is difficult because the property is split between two different zoning districts. Mr. Lung explained the densities allowed in the two different zoning districts and the allowed exemption lots.

**Discussion:** Mr. Kercheval asked if Lots 5 and 6 and Lots 3 and 4 are sharing accesses. Mr. Townsley of Fox & Associates, stated that Lots 5 and 6 would share an access and Lots 3 and 4 would have a shared access off of Breathedsville Road. He noted there are sight distance issues along Breathedsville Road; therefore, a shared access is necessary. Mr. Sherman Horn, representing the Estate of George Horn, plans to sell the remaining lands to a developer for future use. Mr. Kercheval asked how forestation requirements would be met on the lot. Mr. Townsley stated there is existing forest behind Lot 6 to the property line. The developer believes this would be a good place for forest retention because it would provide a buffer along Lappans Road. Ms. Parrish made an inquiry with regard to the three dot stream reported on the property. Mr. Lung stated that the three dot stream is a perennial stream. He noted that an investigation to verify that the stream meets all of the criteria of a perennial stream has not been completed. Mr. Anikis stated that a Rural Village cannot be increased in density by more than 10%. He asked if the subdivision would meet this requirement and which lots would be included in the Rural Village zone. Mr. Lung noted there would be four lots added to the Rural Village. There was a brief discussion with regard to the boundaries of the Rural Village. Mr. Anikis asked Staff to verify this issue to insure that the development does not exceed the 10% growth. Mr. Reiber questioned the width of the shared driveway. Mr. Lung stated the developer would be required to follow State Highway Administration's standard for ingress and egress. Mr. Anikis asked if Breathedsville Road would need to be widened for future development. Mr. Townsley stated that a Road Adequacy Worksheet was prepared and it would not need to be widened.

## **OTHER BUSINESS**

### **City of Hagerstown Annexation (A08-05)**

Mr. Thompson presented for review and recommendation an annexation request for Private Reserve, LLC for property located off of Atlantic Drive, adjacent to Summerland Manor. The property is approximately .65-acres in size and is currently zoned by the County as RU – Residential Urban. If the property is annexed into the City of Hagerstown, it is proposed to be zoned R1 – Residential. The County's Comprehensive Plan designates this property for low density residential and the City's Comprehensive Plan proposes moderate density residential. The County Planning Staff has reviewed the application and has found the proposed City's zoning to be similar to the County's zoning. It is Staff's opinion that "express approval" is not necessary.

**Motion and Vote:** Mr. Reiber made a motion to recommend to the Board of County Commissioners that "express approval" is not necessary for this request. Seconded by Ms. Parrish. Unanimously approved. Mr. Kercheval abstained.

### **Doubs Farm/Hagerstown Towne Center Annexation (PC-08-005)**

Mr. Thompson began the discussion for the annexation request of approximately 142-acres of property into the City of Hagerstown. The property is located at the intersection of US Route 40 and I-70. Mr. Thompson stated that the County does not have a formal role in the annexation of this property; however, there is a significant difference in the current County and the City of Hagerstown's proposed zoning. Therefore, the Board of County Commissioners must grant "express approval" to permit the proposed project to move forward at this time. If "express approval" is not granted, the project would be required to wait for a period of five years, after which it could be developed as the City deems appropriate. The applicant is requesting a C-4 (Commercial Regional Shopping Center) zoning designation upon annexation into the City of Hagerstown. The property is currently zoned primarily HI-2 – Highway Interchange 2, with a small portion of HI-1 (Highway Interchange 1) zoning along the Dual Highway. The applicant is proposing approximately 16-acres of professional office mixed use on the site, which would be consistent with the County's HI-2 zoning designation. The approximately 124-acres of proposed C-4 zoning designated property would not be consistent with the County's HI-2 zone. The applicant and the City of Hagerstown have requested the Board of County Commissioners to grant "express approval". The BOCC reviewed the proposal in March 2008 and a revised proposal was reviewed in May 2008. In an effort to respond to the City in a timely manner, the BOCC requested Staff to conduct a preliminary consultation, which was held on June 30, 2008. In addition, the BOCC is requesting additional input from the Planning Commission. The BOCC will be holding a public meeting on Tuesday, July 15, 2008 at Hagerstown Community College to receive citizen input. Upon completing their review of the project including Staff's comments, Planning Commission comments, and citizen comments, the BOCC will make their decision to grant or deny "express approval". Several City and County agencies and the State Highway Administration were present at the preliminary consultation. Mr. Thompson stated that based on the information submitted for this project, many of the comments are general in nature because a detailed plan has not been developed at this point in time. He also noted that the project does not have the appropriate County zoning at this time.

Mr. Tim Lung presented a verbal summary of the consultation. Due to time constraints, a written summary was not available at this time. Mr. Lung began his presentation using a map to show the subject property and surrounding zoning designations and land uses. Mr. Lung noted that all of the land involved in the project is under the control of the developer. He stated that the proposal indicates that a portion of Day Road would be abandoned. Any abandonment of a County road requires a public hearing and approval by the Board of County Commissioners. Mr. Lung stated that the concept plan proposes 4 major anchor stores, 5 junior anchor stores, additional retail shops, and a movie theater for a total of 875,000 square feet of space. There are also nine out-parcels for stand-alone retail pad sites totaling 45,000 square feet of space, two 120 room hotels, and three office buildings with approximately 70,000-square feet each for a total of 210,000 square feet. The primary access will be off of US Route 40 just west of the I-70 ramp. The existing road leading into the Hagerstown Commerce Center is proposed to be relocated further west to tie in with the new access for the shopping center. The project has been designed to meet the City of Hagerstown standards for C-4 zoning; therefore, a detailed analysis from a County zoning standpoint has not been completed. Comments have been issued on the design of the project by the City of Hagerstown, which mirrored many of the concerns expressed by the County during the preliminary consultation. Mr. Lung noted that the County reviewed the plans to determine if the property is annexed into the City, what impact would it have on the surrounding area that would stay in the County. The County staff discussed their concerns with regard to traffic, storm water management, buffering, lighting, and noise, etc. Representatives from the State Highway Administration and the County Engineering Department were present at the consultation. A traffic study was prepared and submitted to both agencies in the spring. Based on scoping requirements from the SHA, the traffic study included only intersections along US Route 40. During the consultation, the County Engineering Department requested a broader scope of review to assess traffic impact and indicated the specific intersections and areas to be evaluated prior to making any recommendations for off-site improvements that would be required. Mr. Lung stated that written comments were received from the Town of Funkstown Planning Commission with regard to the impact of traffic in Funkstown. Mr. Joe Kroboth, Director of Public Works, was present at the consultation and indicated that the traffic study should incorporate review of the impact this development would have on traffic going through Funkstown. Traffic concerns were also discussed with the development's impact on Landis Road. The concept plan shows a mini-round-about located on Landis Road. Fire and Rescue agencies are opposed to the mini round-about, which makes it difficult for emergency vehicles to maneuver. Comments from the City and County agencies and Fire and Rescue agencies recommended a second major access point. An internal private road access to the office complex area is not acceptable. Agency comments during the consultation focused on the relocation of Landis Road to intersect with a public street extended through the development. Staff from both the City and County are opposed to the location of the gas station pumps proposed at the entrance to the development. A frontage road for access to all of the out-parcels located along the main access road was recommended. Comments focused on the appearance of the site from the interstate and included comments about dumpsters, service entrances, the appearance of the backs of the buildings, signage on the back of the buildings, etc. Recommendations were made to use the storm water management pond as an amenity at the entrance to the development. Concerns were voiced with regard to traffic movements and pedestrian access in front of the stores. The City recommended moving the large anchor stores closer to the center of the development. Setback requirements were discussed for the City's C-4 zoning classification. Two of the proposed large anchor stores adjacent to the existing condominiums do not meet the setback requirement. Provisions for buffering using berms, fencing and vegetation along all residential areas were discussed. The City of Hagerstown's Annexation Agreement requires 40-feet of buffering along Landis Road. The City Planning Department recommends a 50-foot buffer planted with evergreens. The proposed building setback requirement of 25-feet is required by the Zoning Ordinance. The developer is proposing a 40-foot building setback and the City Planning Department is recommending a 50-foot building setback. The parking lot landscape buffer requirement is 10-feet and the proposed buffer is 40-feet. The City Planning Department is recommending a 50-foot landscape buffer. The County Planning Department recommended low-level down-directed, full cut-off lighting. Mr. Lung stated that some stores use up-lighting to highlight the sides of their stores which causes a shaft of light to create a halo effect above the site. Staff discourages the use of this type of lighting. Forest Conservation requirements are proposed to be addressed within the floodplain and stream buffer areas on-site. **Question:** Mr. Anikis asked if a bridge would be required over the flood plain area. Mr. Lung stated criteria to span a flood plain area would be required. Mr. Lung also noted that the County Engineering Department would require a detailed flood plain analysis to clearly define the width of the flood plain. FEMA Amendments may also be necessary. The County Engineering Department expressed concern with regard to backflow from storm water management on the other side of Landis Road. Provisions for two public transportation (bus) stops were recommended during the consultation. Large unbroken expanses of parking areas was a concern by both City and County staff. A Forest Stand Delineation was prepared for the site which showed no existing forest. The developer intends to address Forest Conservation requirements by planting in the floodplain area. The City of Hagerstown allows street trees to qualify towards Forest Conservation requirements. The County's Historic District Commission reviewed the plan at their July 2, 2008 meeting. Old records of a potential cemetery dating to the 18<sup>th</sup> century on the site were discussed during the meeting. Mr. Lung noted that an environmental study was completed on this property by the consultant, which did not show the cemetery. However, he stressed that the issue should be further investigated. Public water and sewer would be provided to the site by the City of Hagerstown. The sewer must comply with the City's Sewer Capacity Allocation Program (SCAP). Water lines should be evaluated in the area to insure adequate flow of water for fire protection. Mr. Lung stated there is an existing pumping station located at the Four Points Hotel. The City indicated that the pumping station must be upgraded and moved to property located on Hebb Road. Concern was expressed with regard to noise from the back of the buildings due to loading and unloading of trucks.

**Discussion:** Mr. Reiber asked if there were discussions regarding the need for public safety services within the complex. Mr. Lung stated that Sheriff Mullendore was present at the consultation and did not indicate the need for a substation. The Sheriff was concerned with access to the development. Once annexed, the area would be under the jurisdiction of the Hagerstown Police Department. Mr. Lung stated that comments were received from the County's Division of Fire and Rescue and the City of Hagerstown Fire Department. Neither agency requested a fire station; however, they did express concern with regard to access and the proposed mini round-about. Planning Commission members expressed their concern with regard to access to the proposed outparcels, buffering between the proposed shopping complex and existing residential units, buffering between the theater and residential area of Landis Road, buffering between the shopping complex and the interstate, and County off-site road improvements. They also expressed their opinion that the development should be made more pedestrian friendly and that the large anchor stores should be moved toward the center of the development, Mr. Anikis recommended that if the developer finds the cemetery on the property, it should be protected and maintained. He expressed his concern for the mosque located on the adjacent property and their privacy. Mr. Anikis expressed his concern that if both proposed shopping centers are developed, the County will become too saturated with retail areas, which could result in many empty buildings. Mr. Wiley expressed his opinion that upgrades for water and sewer systems should be required to help "offset usage". Mr. Anikis asked if the project would be required to follow the new TMDL's (Total Maximum Daily Loading). Mr. Bass of the City of Hagerstown stated that would be within the purview of the City's Water and Sewer Department during the site plan review process. He noted that City Staff has only made a preliminary review of the concept plan. Mr. Anikis suggested that the developer consider a biotechnology business park and believes this site would be the ideal location for such a facility.

**Consensus:** The Planning Commission concurs that "express approval" would be required for the subject site and with Staff's concerns that need to be addressed as this project moves forward.

#### **ADJOURNMENT**

Mr. Wiley made a motion to adjourn the meeting at 9:00 p.m. Seconded by Ms. Parrish. So ordered.

Respectfully submitted,

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George Anikis, Chairman