

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING – September 8, 2008**

The Washington County Planning Commission held its regular meeting on Monday, September 8, 2008, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown, Maryland.

Members present were: Chairman George Anikis, 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, Senior Planners Misty Wagner-Grillo and Lisa Kelly, Parks and Environmental Land Planner Bill Stachoviak, and Administrative Assistant Debra Eckard.

**CALL TO ORDER**

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

**MINUTES**

Mr. Reiber made a motion to approve the minutes of the August 4, 2008 Regular Planning Commission meeting as presented. Seconded by Mr. Ecker. Motion passed with Mr. Reiber, Mr. Ecker and Mr. Anikis voting "Aye" and Mr. Kercheval abstained (due to absence at the August 4<sup>th</sup> meeting).

**NEW BUSINESS**

**- VARIANCES**

**Mary E. Grim, Lots 1-4 (SV-08-013)**

Ms. Wagner-Grillo presented for review and approval a variance from Section 405.2A of the County's Subdivision Ordinance for access spacing. The property is located along the east side of Rohrersville Road (MD Route 67) and is zoned EC – Environmental Conservation. The applicant is requesting a reduction of the required 500-foot access spacing requirement for proposed driveways for Lots 1, 2, 3, 4 and the remaining lands. The existing driveways are 250-feet apart and the existing driveway off-site is 450-feet. Ms. Wagner-Grillo stated that the State Highway Administration has reviewed the sight distance requirements and has approved the variance.

**Motion and Vote:** Mr. Ecker made a motion to approve the variance request as presented. Seconded by Mr. Kercheval. The motion passed with Mr. Ecker, Mr. Anikis and Mr. Kercheval voting "Aye" and Mr. Reiber abstained.

Mr. Wiley arrived at 7:05 p.m.

**Barry Stup and Moira Weldon**

Ms. Wagner-Grillo presented for review and approval a waiver from Section 5B.5 of the Zoning Ordinance for a 50-foot Agricultural Land Use Setback for property located along Brownsville Road. The property is zoned EC – Environmental Conservation. The applicant is requesting a waiver from the 50-foot agricultural setback for an existing garage in order to subdivide 3-acres around the existing house and garage. Staff has no objection to reducing the agricultural setback from 50-feet to 15-feet for the existing garage due to the fact that it is not a principal structure and will meet the setbacks of the Environmental Conservation zone.

**Discussion:** Mr. Ecker asked what the owner is planning for the remaining acreage. Mr. Townsley of Fox & Associates, Inc., the applicant's consultant, stated that Mr. Stup is planning to keep the land at this time and would like to build a house on the property in the future.

**Motion and Vote:** Mr. Reiber made a motion to approve the waiver based on Staff's recommendation for the existing garage. Seconded by Mr. Ecker. Unanimously approved.

**- SUBDIVISIONS**

**Rye Field Estates (PP-05-012)**

Ms. Wagner-Grillo presented for review and approval the preliminary plat for Lots 2-18 of Rye Field Estates. The property is located between Stottlemeyer Road and I-70 and is zoned A(R) – Agricultural Rural. The developer is proposing a single-family subdivision for Lots 2-18 with a new cul-de-sac (Barley Lane), which will be 1,200-feet in length. All lots will be served by private wells and septic. The proposed subdivision is located in the Mt. Aetna and Boonsboro Fire Districts and the Greenbriar Elementary, Boonsboro Middle and Boonsboro High school districts. Forest Conservation Ordinance requirements will be met through forest retention and planting of a total of 19.6-acres. School mitigation requirements will be addressed at the final plat stage. All agency approvals have been received.

**Discussion:** Mr. Anikis made an inquiry regarding who is responsible to notify potential owners of the sand-mound septic systems on several of the lots. Ms. Wagner-Grillo stated that a note is on the plat. Mr. Townsley of Fox & Associates, Inc., the owner's consultant, stated that both the developer and the Health Department should be responsible. Mr. Anikis recommended that the Health Department provide

a fact sheet for these systems to potential owners. Mr. Lung recommended that a note be attached in the permits plus system to the parcels requiring sand-mound systems so owners can be instructed to contact the Health Department to obtain guidelines on the installation and maintenance of these systems.

**Motion and Vote:** Mr. Ecker made a motion to approve the Preliminary Plat as presented. Seconded by Mr. Reiber. Unanimously approved.

#### **John A. Horst, Lots 7-11 (PP-08-002)**

Ms. Wagner-Grillo presented for review and approval the preliminary plat for Lots 7-11 for John A. Horst. The property (127.39-acres) is located along the east side of Ashton Road and the north side of Big Pool Road and is zoned A(R) – Agricultural Rural. All lots will be served by individual wells and septic systems. Storm water management will be addressed through the use of a rain garden. The proposed subdivision is located in the Clear Spring Elementary, Middle and High school district and the Clear Spring Fire and Ambulance service areas. School mitigation requirements will be addressed at the final plat stage. Lot 1 was approved in November 1975, Lots 2-5 were approved in March 2006 and Lot 6 was approved in June 2008. A preliminary Forest Conservation Plan for Lots 7-11 was submitted with Lot 6 and was approved in June 2008. The total Forest Conservation requirement for Lots 6-11 is 1.27-acres. The developer is proposing to retain the remaining lands (0.21-acres) and planting 1.06-acres for Lots 7-11 to meet the Forest Conservation Ordinance requirements. A final Forest Conservation Plan will be submitted with the final plat for Lots 7-11. All agency approvals have been received.

**Discussion:** Mr. Ecker asked what the developer's plans are for the remaining parcel. Mr. Schreiber of Frederick, Seibert & Associates, the developer's consultant, stated it will continue to be farmed. Mr. Ecker asked how many lots could be subdivided from the remaining lands. Mr. Schreiber stated approximately 18 or 19 additional lots would be available. Mr. Ecker expressed his concern for additional traffic and access on Big Pool Road. There were brief discussions regarding road adequacy issues on Ashton and Big Pool Roads, school mitigation, and storm water management.

**Motion and Vote:** Mr. Ecker made a motion to approve the Preliminary Plat for Lots 7-11 as presented. Seconded by Mr. Reiber. Unanimously approved.

#### **- SITE PLANS**

#### **Carl Eby, Jr. – Lot 1 (S-08-067 and SP-08-020)**

Ms. Kelly presented for review and approval the Preliminary/Final plat and Site Plan for Carl Eby, Jr. for property located along the north side of Clear Spring Road near the intersection of Cedar Ridge Road. The property is zoned A(R) – Agricultural Rural. The owner is proposing to expand a private lumber drying facility on a 16.3-acre parcel in addition to a single-family residence. Existing on the site is a kiln and furnace building and a storage building. The owner is proposing to add 3 drying sheds, a lumber storage yard, a stacking shed and an additional furnace and kiln facility. The maximum height of all buildings is 30-feet. The site is served by individual well and septic. The hours of operation are Monday through Friday 8:00 a.m. to 5:00 p.m. The owner will be the only employee; therefore, no parking spaces are required. Lighting will consist of wall mounted lights. No signs are proposed. Solid waste will be collected by inside containers. There will be approximately 3 truck deliveries per week. The Board of Zoning Appeals granted a special exception (Case #AP-99-109) in September 1999 to establish a wood drying operation with storage in a proposed 60-foot by 150-foot building and 30-foot by 40-foot building to house a drying kiln. Forest Conservation Ordinance requirements will be met by retaining 4.90-acres of existing forest on-site. All agency approvals have been received on the site plan. Health Department approval is pending on the Preliminary/Final plat.

**Motion and Vote:** Mr. Reiber made a motion to approve the Site Plan as presented and the Preliminary/Final plat contingent upon Health Department approval. Seconded by Mr. Wiley. Unanimously approved.

#### **Bowman Truck Sales and Leasing (SP-08-026)**

Ms. Kelly presented for review and approval a site plan for Bowman Truck Sales and Leasing located along the south side of Precision Place, which is south of Maugans Avenue and east of I-81. The site is currently the subject of a rezoning request for HI-1 – Highway Interchange 1 zoning. The Board of County Commissioners have given preliminary approval for the rezoning request; final approval is pending. The subject site is approximately 17-acres in size and is currently the site of the former Angstrom Precision manufacturing building. The building is approximately 41,400-square feet in size. The developer is proposing to use 462-square feet of the existing building for truck tractor sales and leasing. Access will be onto Precision Drive. The hours of operation will be Monday through Saturday, 7:00 a.m. to 5:00 p.m. with 2 employees per shift. There will be no freight deliveries. Two parking spaces are required and 4 spaces are provided. The sales display area will be 41, 12-foot by 25-foot parking spaces for trucks and trailers for sales and lease. The site is served by public water provided by the City of Hagerstown and public sewer provided by Washington County. The existing sign will be used, no new signs are proposed. Solid waste will be collected by inside containers. The existing parking lot lights will be used, new lighting is not proposed. The site is exempt from Forest Conservation Ordinance requirements since no new development is proposed. All approvals have been received.

**Motion and Vote:** Mr. Reiber made a motion to approve the site plan contingent upon approval of the pending rezoning request by the Board of County Commissioners. Seconded by Mr. Ecker. Unanimously approved.

#### **Fort Ritchie Building 517 and 518 (SP-08-032)**

Mr. Lung presented for review and approval a site plan for the conversion of two existing buildings at the former Fort Ritchie military base being redeveloped by COPT. The two existing buildings are located in the Restricted Office District and are not in the historic area. The developer is proposing to convert the former PX building (Building #517) to a 27,250-square foot office building and the former commissary (Building #518) to a 42,000-square foot data storage center. Both buildings are located on West Benfield Avenue. The former military base is zoned SED – Special Economic District. The buildings were constructed by the military in the 1990's. Significant landscaping, parking and lighting exist around the two buildings. Ten employees are proposed for the data storage area. Parking requirements for this building are based on office square footage; therefore, 140 parking spaces are required and 150 spaces, including handicapped spaces, are provided. Sixty employees are proposed for the office building; therefore, 91 parking spaces are required and 91 parking spaces are provided. The Board of Zoning Appeals granted a variance in 2007 that applied to the entire redevelopment of the existing buildings, which reduced the parking space dimensional requirements from 9' x 20' to 9' x 18' and the aisle widths from 25' to 23'. New handicapped spaces meet the current ADA and Maryland Code requirements. The existing lighting on the site consists of the shoe-box style down-directed lighting, which staff believes is sufficient. Hours of operation for both buildings will be Monday through Friday, 7:00 a.m. to 6:00 p.m. Trash and recyclables will be collected inside the building. Occasional truck deliveries are proposed. Mr. Lung noted that the design of the existing buildings and their previous use provides for extensive loading areas to the rear of the buildings. There is existing water and sewer service to the buildings. The County's Department of Water Quality has jurisdiction over the sewer and has granted their approval. COPT operates the private water system. The County Engineering Department has given their approval for the site plan. There is no new disturbed area; therefore, no review of storm water management is required at this time. The roads in the development are private and are owned and maintained by COPT. The County's address assignment personnel and Fire and Emergency Services personnel have determined that a new road name was needed because another Benfield Avenue currently exists on the site that does not connect to this portion of the road. This portion of the road will be renamed to Range Road; however, depending upon how the Fort redevelops in the future and new road alignments are made, the road name may change again. No new signs are proposed. The site is exempt from Forest Conservation requirements because it is redevelopment of existing buildings with no new disturbed area. Health Department approval is pending. All other agency approvals have been received.

**Discussion:** Mr. Lung stated there was a previous discussion regarding the Planning Commission giving Staff the authority to approve site plans based on the overall concept plan presented at the preliminary consultation. However, it was the Planning Commission's opinion, at that time, there was not information provided on the concept plan to give staff the authority to grant approvals and no formal action was taken by the Planning Commission. Mr. Kercheval expressed his belief that only minor changes were needed to the concept plan. He does not recall the Planning Commission being dissatisfied with the level of the concept plan and wanting continued review of all new development plans for the site. He believes that staff should be given the authority to approve site plans in order to keep projects moving in a more timely manner. Mr. Reiber recalls there were questions regarding street and road name changes, issues regarding the sewer plant and concerns regarding Fire and Emergency Services issues. Mr. Kercheval recommended that COPT try to resolve all outstanding issues and submit their master plan to the Planning Staff in order that Staff may be given the authority to approve future site plans requiring minor changes to the site.

**Motion and Vote:** Mr. Kercheval made a motion to approve the site plan as presented contingent upon Health Department approval. Seconded by Mr. Reiber. Unanimously approved.

#### **- FOREST CONSERVATION**

##### **Estate of Agnes M. House (S-08-032)**

Ms. Wagner-Grillo presented for review and approval a request for off-site retention to meet Forest Conservation Ordinance requirements for property located at the intersection of King Road and Maryland Route 67. The applicant has submitted a preliminary/final plat of subdivision for 5 lots. The total forest mitigation requirement for the proposed development is 2.01 acres. The applicant would like to meet this requirement through off-site retention on a separate parcel also owned by the applicant. The Forest Conservation Ordinance requires off-site retention at a 2:1 ratio, which would bring the total mitigation requirement to 4.02 acres. The applicant is requesting approval of the off-site retention of 3.49-acres and a waiver for the remaining 0.53-acres of required mitigation. Staff has no objection to the off-site forest retention at the 2:1 ratio (4.02 acres) since the parcel is adjacent to the subject site and is owned by the applicant. However, staff does object to the reduction in the amount of mitigation to 3.49-acres since there are other options to meet the requirement, such as payment-in-lieu in the amount of \$2,308.68 or planting of additional forest.

**Comment:** Mr. Russ Townsley of Fox & Associates, Inc., the applicant's consultant, stated that the applicant is withdrawing their request for a waiver of the remaining 0.53-acres and requesting the use of the payment-in-lieu in the amount of \$2,308.68 to meet the forest mitigation requirement.

**Discussion:** Mr. Reiber asked if the applicant has enough acreage to plant the additional forest. Mr. Townsley stated there is enough area; however, it would have to be separated from the existing woods. He also stated it would be easier for the applicant to make the payment-in-lieu. Mr. Kercheval expressed his opinion that the County is getting more trees with the proposed plan, which is better for the environment and it creates a good buffer at the intersection of two roads.

**Motion and Vote:** Mr. Ecker made a motion to approve the off-site retention of 3.49-acres of forest and the payment-in-lieu in the amount of \$2,308.68 to meet Forest Conservation requirements. Seconded by Mr. Kercheval.

**Comment before the vote:** Mr. Reiber expressed his opinion that there is enough acreage to plant the remaining 0.53 acres of forest.

**Vote:** The motion passed with Mr. Ecker, Mr. Wiley and Mr. Kercheval voting "Aye" and Mr. Reiber voting "Nay".

#### **John Moore – Frog Hollow Estates (FS-04-008 and S-04-029)**

Mr. Stachoviak presented for review and approval a Forest Conservation Plan non-compliance case for Frog Hollow Estates, Lots 1-4. The property is located along the east side of Harpers Ferry Road approximately 0.35 miles south of its intersection with Nick Road. Mr. Stachoviak stated that the Planning Department was notified on June 9, 2008 by a neighbor that a logger was removing trees on the site. An inspector from the Engineering Department was requested to visit the site and reported that a logger was removing trees that had already been cut or blown down by a storm. The owner, Mr. Moore, was told to contact the County Planning Department, which he did soon afterwards. Mr. Moore was informed that he was not in compliance with the Forest Conservation Plan since there were no signs installed or inspections conducted prior to beginning activity. On June 12, 2008, a site inspection was made and a non-compliance notification was sent to Mr. Moore. Signs were installed by July 1<sup>st</sup> and inspected on July 8<sup>th</sup>. At that time, Mr. Stachoviak determined there was a timber harvest on the site, which he estimated to be a total of 32,000-square feet. He noted that the trees had been cut in the stream buffer area and in the forest conservation easement area designated on the property. A second letter was sent to the owner, which assessed the non-compliance fee of \$9,600 and specified corrective measures. Mr. Moore contacted his consultant, Triad Engineering, who determined that the remaining trees still meet the definition of a forest. Due to the applicant's cooperation and response to all appropriate corrective measures, Staff recommends a reduction of the non-compliance fee.

**Discussion:** Mr. Anikis stated that he visited the site and noted that the signs do not appear to be made of metal and appear to be temporary. Mr. Stachoviak stated that the signs are heavy vinyl on wooden stakes. Mr. Anikis expressed his concern with regard to a stream bed crossing and the slope of the grade to access the last lot.

Mr. Reiber asked if permits are required for logging, if specific areas on each lot were restricted from logging and a general explanation of "harvesting". Mr. Stachoviak stated that a "selective harvest" was performed, which means that selected trees were cut. He expressed his opinion that if signs had been installed and an inspection of the signs had been performed initially, the non-compliance may not have occurred. Mr. Stachoviak stated that timber harvesting is allowed following certain criteria, such as obtaining a sediment control plan from the Washington County Soil Conservation District and a timber harvest management plan. There was a brief discussion regarding different strategies to insure that property owners understand their responsibilities with regard to forest conservation areas.

Mr. Kercheval expressed his opinion that the County needs to make improvements in handling the Forest Conservation program.

Mr. Reiber asked who determines the non-compliance fee. Mr. Thompson stated that the maximum fee that can be charged is established in the Forest Conservation Ordinance; however, the Planning Commission may adjust the fee based on individual circumstances. There was a brief discussion regarding the amount to be assessed for the non-compliance fee.

**Motion and Vote:** Mr. Kercheval made a motion to assess a non-compliance fee of \$50.00. Seconded by Mr. Wiley. The motion passed with Mr. Kercheval, Mr. Wiley and Mr. Ecker voting "Aye" and Mr. Reiber abstained.

**Recommendation:** Mr. Anikis recommended that the signs be placed on metal posts as soon as possible and that an engineering firm stakeout the appropriate area.

The Commission recommends that Mr. Moore contact Mr. Weibley of the Washington County Soil Conservation District before proceeding with the timber harvest to obtain appropriate permits.

#### **OTHER BUSINESS**

Mr. Thompson reminded Commission members that the Maryland Department of Planning and Smart Growth Task Force will be holding their "listening" session on Thursday, September 25<sup>th</sup> in Hagerstown. A notice was included in the September Agenda packets.

Mr. Thompson announced that the Hagerstown City Council would like to hold a joint meeting with the County Planning Commission to discuss the Water Resources Element. Further discussion will be held during the Commission's Workshop in October. Mr. Thompson noted that the County will be preparing an

RFP to hire a consultant to write the County's Water Resources Element. Several municipalities will be participating with the County (Smithsburg, Hagerstown, Williamsport and Hancock).

Mr. Thompson announced that the PATH stakeholder's meeting scheduled for this week has been cancelled and will be rescheduled at a later date. He noted that during recent discussions, it was determined that many of the agricultural easements throughout the state would need to be changed, which would take approximately 3 to 5 years.

Mr. Wiley left the meeting at 9:00 p.m.

#### **UPCOMING MEETINGS**

1. Planning Commission Rezoning Public Meeting, Monday, September 15, 2008, 7:00 p.m., Washington County Court House, 95 West Washington Street, Court Room #1, Hagerstown.
2. Regular Planning Commission Meeting, Monday, October 6, 2008, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1, Hagerstown
3. Planning Commission Workshop, Monday, October 20, 2008, Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1, Hagerstown

#### **ADJOURNMENT**

Chairman Anikis adjourned the meeting 9:15 p.m. .

Respectfully submitted,

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George Anikis, Chairman