

**WASHINGTON COUNTY PLANNING COMMISSION
PUBLIC REZONING MEETING AND
REGULAR MEETING – March 2, 2009**

The Washington County Planning Commission held a public rezoning meeting and its regular meeting on Monday, March 2, 2009, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Linda Parrish, Andrew Bowen, Sam Ecker, 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 Planner Misty Wagner-Grillo, and Administrative Assistant Debra Eckard. Also present was Board of County Commissioner Terry Baker.

CALL TO ORDER

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

REZONING PUBLIC MEETING

RZ-09-002 – “IM” Industrial Mineral Zoning District Text Amendment

Mr. Thompson presented a proposed text amendment to Section 15.5 (h) of the “IM” Industrial Mineral zoning district with regard to fencing requirements. Currently, the Zoning Ordinance requires that mineral extraction areas shall be surrounded by a fence. The language, as currently written, requires all areas to be fenced, which may or may not be applicable based on the type of mining taking place. The proposed language would allow the Planning Commission to review and modify each request as it is submitted to determine if fencing is appropriate. However, mandatory requirements would apply to areas where water could collect at a depth of more than one and one-half feet or slopes are steeper than one foot vertical to three feet horizontal. All extraction areas that are required to be fenced shall be posted with appropriate warning signs. Mr. Thompson noted that the slope requirement is based on county road standards

Discussion: Mr. Kercheval asked if the 3:1 slope is used for safety reasons or for convenience in mowing and maintenance. Mr. Thompson stated that the Department of Public Works uses the 3:1 slope for roads, which could be for maintenance issues but he would need to discuss the issue in more detail with them. Mr. Kercheval asked for more detail on the 3:1 slope prior to the Board of County Commissioner’s public hearing on this text amendment. He also requested more concise language with regard to when the Planning Commission should modify the fencing request.

Public Comment: Mr. Barry Miller of Redland Brick stated that the State’s permit requires a 2:1 slope. He noted that Redland Brick recently paid \$38,000 to fence an extraction area along MD Route 68. They believe this was an undue cost due to the gentle slope of the area. Mr. Miller expressed his support for the proposed amendment.

RZ-09-004 – Small Wind Energy and Solar Collection Systems

Mr. Thompson presented a proposed text amendment to add Sections 4.24 (Small Wind Energy Systems) and 4.25 (Solar Collection Systems) and to amend Article 28 (Definitions) to allow for alternative energy sources as accessory uses under the County’s Zoning Ordinance. Currently, the Zoning Ordinance is silent on the issue of alternative energy sources within the County. One purpose of the Zoning Ordinance is to “...promote the conservation of natural resources; prevent environmental pollution.” The use of renewable energy would fall into this category. However, under Article 2.1 of the Ordinance, “...if the proposed use is not in the list of those permitted, it shall be prohibited as though it were included in the prohibitions.” The proposed language would permit alternative energy sources as accessory uses on both residential and non-residential properties with some restrictions. Bulk requirements are proposed that establish setbacks, access, electrical wires, clearance, etc. The bulk requirements would also provide for the placement of systems on existing buildings as well as allowing free-standing units. The proposed text amendment would allow two Small Wind Energy Systems for each property and no variances would be permitted with regard to the distances, restrictions and standards. Language pertaining to the abandonment of the system is also proposed.

Mr. Thompson stated that the second part of the amendment would allow for the placement of solar collection systems as accessory uses on both residential and non-residential properties. The solar collection systems may be free-standing or building mounted, with limitations, and shall not be located within the required front yard. Height and size limitations are proposed.

Discussion: Ms. Parrish questioned the restriction that would not permit either system in front yards. She noted there may be instances when the systems could be placed in front yards without being visible to neighboring properties, such as panhandle lots or lots that have forested front yards. Ms. Parrish questioned the restriction for two small wind energy systems per property. She believes that the number of systems should be based on the acreage of the property. Ms. Parrish questioned who would monitor the abandonment of the small wind energy systems. Mr. Thompson stated it would be based on complaints received by the County. Mr. Anikis recommended that the owner should be required to notify the County when the system will no longer be in use. Ms. Parrish questioned the height requirement for the free-standing solar collection systems. Mr. Thompson stated the height is a standard being used in

other counties. Ms. Parrish questioned the collection system limitation size of 15% of the cross-sectional area of the roof. Mr. Thompson stated that the structural stability of the buildings is a concern when placing the solar collection system on a roof. Mr. Wiley expressed his opinion that technology will develop greatly and he believes that 15% is an unrealistic limitation. He noted that solar shingles have already been developed that would cover an entire roof.

Mr. Kercheval questioned the setback requirements of the guy wires from a wind tower. Mr. Thompson stated that if the wind tower fell down it would not take the other wires down. He also noted that the language is consistent with the State of Maryland's model ordinance. Mr. Kercheval questioned the color of finish requirement on the wind tower. Mr. Thompson stated it is for appearance only. Mr. Kercheval questioned the limitation of no variances for wind towers. He believes there may be instances when wind towers may be appropriately located in front yards. Mr. Thompson stated they may be able to write specific language for standard yard requirements. Mr. Kercheval noted the lack of language regarding maintenance of solar collection systems and wind towers and the abandonment of solar collection systems. Mr. Thompson stated that maintenance issues could be addressed in other sections of the Ordinance. However, solar collection systems would operate continually. Mr. Kercheval expressed his opinion that free-standing solar collection systems should be treated the same as a wind tower. He expressed his opinion that "shading" issues for solar collection systems should be addressed up front.

Mr. Reiber expressed his opinion that the number of wind energy systems allowed should be addressed according to the size of each property. He made an inquiry regarding windmill farms. Mr. Thompson stated that windmill farms would not be allowed at this time; thus, the limitation of two wind towers per property. He noted there is a separate approval process required for windmill farms.

Mr. Ecker expressed his opinion that the proposed amendments do not take agricultural uses into consideration. He believes that the number of windmills should be based on acreage. Mr. Ecker expressed his opinion that the language for solar collection systems needs to be clarified and should include language for greenhouse structures for agricultural uses.

Mr. Bowen concurred with other Commission member's comments and concerns. He suggested that separate text and clarification is needed for residential and non-residential uses. Mr. Bowen expressed his opinion that the amendments are written to address too many issues at one time.

Mr. Anikis questioned the legal action that can be taken by the Zoning Administrator upon abandonment of a wind energy system. Mr. Thompson stated that the Zoning Administrator could take legal action in the circuit court. Mr. Anikis recommended that the County should be notified of the reason for abandonment, such as repairs or maintenance issues and the length of time the wind tower will not be in operation. Mr. Anikis expressed his opinion that additional language should be included in the text to address requirements for over speed control, automatic braking, and RFI interference. Mr. Thompson stated that the State model ordinance and Carroll County's wind energy ordinance do not address these issues. He stated that Allegheny County's ordinance addresses RFI interference from commercial wind towers but not residential towers. Mr. Anikis expressed his opinion that this amendment is being "rushed through" and more information should be collected to determine problems that could arise and how they can be resolved. Mr. Wiley agreed with Mr. Anikis' comment; however, he believes there are people that currently have a need for the amendments because they have grant money available. He suggested preparing separate amendments for the wind energy and solar collection systems. Mr. Thompson stated that separate amendments would be possible. Mr. Kercheval expressed his opinion that more conservative requirements in the beginning would be better and could then be amended as appropriate. Mr. Thompson stated that he would be making changes to the text amendments incorporating comments received during this meeting prior to the Planning Commission making their recommendation on the amendments to the BOCC.

Public Comment: Mr. Jim Pierdoon of Standard Solar stated that they are receiving numerous calls from residents of Washington County who want to install solar systems on their homes. He noted that he previously supplied height restriction, roof space and setback requirements that should be used, via e-mail to Mr. Thompson. Mr. Anikis asked if the company provides the structural engineers that determine the maximum load that a house roof can accommodate for a solar collection system. Mr. Pierdoon stated they provide the appropriate contractor to insure that the structural integrity of the roof is not compromised. He briefly discussed different solar applications that are currently being used and newly developed items and efficiency rates.

Mr. Clay Herzog of Mountain View Builders expressed his concern regarding the limitation of two wind towers. He also expressed his concern with regard to the limitation of solar energy collection systems being placed in a front yard and believes that more clarification is needed. Mr. Herzog expressed his opinion that a 20-foot height restriction for a free-standing solar collection system would be more reasonable than a 12-foot height restriction. He believes that the 15% limitation of the cross-sectional area of the roof is confusing and more emphasis should be placed on the planer area that should be polluted with solar panels. He also expressed concern with regard to the limitation size of a solar collection system. Mr. Herzog noted there is a solar access law in the State of Maryland.

Mr. Mike McKechnie of Mt. View Solar stated that there is a growing interest in solar and wind energy systems for private residences. He expressed his concern with regard to the limitation of two wind towers per property especially for people in the agricultural industry. Mr. McKechnie briefly spoke on the issue of the noise produced by wind towers and abandonment issues. He expressed his concern about the

limitation of placing solar collections systems in front yards. Mr. McKechnie suggested referring the 15% limitation of cross-sectional area of the roof to the building codes department.

Mr. William Fisher spoke in favor of the wind energy and solar collection systems. He expressed his desire to be permitted to use these systems himself.

Dr. Paul McAllister of the Smile Design Center stated that he has already designed a solar collection system and has money available for its installation. He expressed his opinion that these amendments are important to the County.

The public meeting was closed at 8:20 p.m.

REGULAR PLANNING COMMISSION MEETING

MINUTES

Mr. Bowen made a motion to approve the February 2, 2009 minutes as amended. Seconded by Mr. Kercheval. Ms. Parrish abstained. Unanimously approved.

NEW BUSINESS

- SITE PLANS

Centra Bank (SP-09-001)

Ms. Wagner-Grillo presented for review and approval the Site Plan for Centra Bank located at the west corner of Longmeadow Road and North Pointe Drive. The developer is proposing a 3,600-square foot financial institution with drive-thru on 10.03 acres. The property is currently zoned BG – Business General. Hours of operation will be Monday through Friday 8:00 a.m. to 7:00 p.m. and Saturday 8:00 a.m. to 12:00 noon. Proposed lighting will be pole-mounted. Two signs are proposed on the site at a height of 25-feet. The number of employees will be six. Public water to the proposed site would be provided by the City of Hagerstown and public sewer would be provided by the Washington County Department of Water Quality. Storm water management will be provided by a pond located off-site. Parking spaces required is 9 spaces and 13 spaces will be provided. There will be two access points to the site. Landscaping will be provided around the building and parking areas using forest pansy redbud trees and a mixture of groundcover and shrubs. Forest Conservation Ordinance requirements were previously met by an off-site forest conservation area per the North Village Development Company. All agency approvals have been received.

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

Discussion: Mr. Kercheval made an inquiry regarding the storm water management pond and drainage issues across the street from this site. Mr. Jeff Tedrick, President of Construction for Bowman Development, stated that a meeting was held with Ms. Jennifer Smith and Mr. Joe Kroboth of the Department of Public Works to discuss these specific issues. An in-depth study regarding the back-up of water was conducted and it was determined that the improvements would reduce the drainage due to the additional quantity being added by the pond improvements. The back-up of water within the 100-year floodplain would be within the storm water right-of-ways. Mr. Kercheval briefly discussed reserved right-of-way needs along Longmeadow Road and future APFO requirements for a traffic signal at Halifax Way with additional development on the site. Mr. Kercheval suggested Bowman Development work with Mr. Kroboth to get County assistance with the construction of the traffic signal in exchange for right-of-way dedication.

Patriot Federal Credit Union (SP-09-004)

Ms. Wagner-Grillo presented for review and approval the Site Plan for Patriot Federal Credit Union located along the south side of Longmeadow Road, east of Pennsylvania Avenue. The developer is proposing a 3,026-square foot financial institution with drive-thru on 1.23-acres and is currently zoned PB – Planned Business. The hours of operation in the lobby would be Monday through Thursday 8:00 a.m. to 4:30 p.m., Friday 8:30 a.m. to 7:00 p.m. and Saturday 8:30 a.m. to 12 noon. The drive-thru will be open Monday through Wednesday from 8:00 a.m. to 6:00 p.m., Thursday and Friday from 8:00 a.m. to 7:00 p.m., and Saturday 8:00 a.m. to 12 noon. The number of employees is 6. Lighting will be pole-mounted with supplemental building mounted lights. One free-standing sign 19-feet in height is proposed. Public water to the proposed site would be provided by the City of Hagerstown and public sewer would be provided by the Washington County Department of Water Quality. Storm water management will be provided by a pond. Required parking is 9 spaces and 33 spaces will be provided. There will be one access point to the site. Forest Conservation requirements were previously met by the North Village Development Company. Landscaping will be provided around the building and parking areas using a mixture of trees, shrubs, groundcover, perennials and grass. The Board of Zoning Appeals granted a variance from the required 50-foot rear setback to a 10-foot rear setback on May 11, 2005. All agency approvals have been received.

Comment: Mr. Kercheval noted that the entrance to the site, as development continues, may ultimately have a median in front of it which may alter traffic movement in and out of the site due to safety issues at the intersection..

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

OTHER BUSINESS

Black Rock P.U.D. (DP-07-001)

Ms. Thompson presented for review and approval an extension request for the Site Plan for the community center for the Black Rock P.U.D. in accordance with Section 16.5(a)(5) of the Zoning Ordinance. The community center was originally scheduled for construction during Phase I of the development; however, several issues have occurred and the project has been redesigned. Transportation improvements are being discussed, which could impact this development. The developer is also requesting a revision to the phasing schedule.

Motion and Vote: Mr. Wiley made a motion to approve the extension request for one year for the Site Plan and approve the revision to the phasing schedule. Seconded by Mr. Reiber. Unanimously approved.

UPCOMING MEETINGS

1. Planning Commission Public Rezoning Meeting, Monday, March 16, 2009, 7:00 p.m., Washington County Court House, 95 West Washington Street, Hagerstown
2. Planning Commission Regular Meeting, Monday, April 6, 2009, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown

ADJOURNMENT

The Chairman adjourned the meeting at 8:40 p.m.

Respectfully submitted,

George Anikis, Chairman