

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – August 3, 2009**

The Washington County Planning Commission held a public meeting and its regular meeting on Monday, August 3, 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 Lisa A. Kelly, Environmental Land Planner William Stachoviak, and Administrative Assistant Debra Eckard.

CALL TO ORDER

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

PUBLIC MEETING

FCO-09-001 – Text Amendment

Mr. Stachoviak presented for review and comment text amendments to the Washington County Forest Conservation Ordinance. He noted that most of the proposed amendments are mandated by Senate Bill 666, which was approved on June 7, 2009 and will become effective October 1, 2009. Mr. Stachoviak briefly summarized the proposed changes beginning with Section 3.2 that deals with exemptions. The forest disturbance threshold for activity conducted on a single lot is being changed from 40,000 to 20,000 square feet. The “immediate family member” exemption is being changed to a child of the owner with a forest disturbance threshold of 20,000 square feet. State law is removing the exemption for development on existing paved surface; therefore, the Ordinance language is being revised to reflect this change. Mr. Stachoviak noted that the rate for payment in lieu (PIL) amount is being changed, per SB 666, from a minimum of \$.10 to \$.30 per square foot. This rate will be in effect until September 30, 2014, at which time the rate may be adjusted for inflation. Mr. Stachoviak stated that the rate for payment in lieu in Article 11 has not changed since the Ordinance was adopted 14 years ago. The Ordinance will also be amended to allow the use of Forest Conservation Fund money for maintenance of existing forests and achieving urban canopy goals. Staff is proposing to add definitions and language to the Forest Conservation Ordinance to allow planting of approved street trees in the Urban Growth Area and Town Growth Areas. Mr. Stachoviak noted that the County Engineering Department is revising the street standards in order to allow street trees within rights-of-way.

Discussion: Mr. Anikis asked if the type of street trees that would be allowed would be specified. Mr. Stachoviak stated they would be specified in the street standards and is consistent with the City of Hagerstown’s standards. Mr. Reiber asked if there would be a minimum size requirement. Mr. Stachoviak stated that there would be a minimum trunk diameter.

Mr. Stachoviak stated that all of the proposed changes have been reviewed by the DNR Regional and State Forest Conservation Program Coordinators. Staff has been reminded that House Bill 972, which was passed last year, changed some of the reporting requirements and needs to be added to the Forest Conservation Ordinance. Mr. Stachoviak noted that language for reporting enforcement activity, areas of 100-year floodplains, and the size and location of forest areas must be reported in GIS format.

Public Comments: Ms. Henryetta Livelsberger made a brief statement on behalf of the Citizens for the Protection of Washington County. The CPWC welcomes the proposed upgrades to the Forest Conservation Ordinance because it believes that the County’s water quality, as well as the quality of life, will be enhanced. Trees play an important role in controlling and abating run-off, which is a major contributor to pollution in streams, rivers and ultimately the Chesapeake Bay.

(Mr. Ecker arrived at the meeting at 7:10 p.m.)

Discussion: Mr. Stachoviak clarified that the State is anticipating a “no net loss” by the year 2011 through the increase in the rate amount for the payment in lieu. Mr. Kercheval asked for clarification of using Forest Conservation Fund money for the maintenance of existing forests and achieving urban tree canopy goals. Mr. Stachoviak stated that currently the money from the FC fund was used only for the planting of trees. With the proposed revisions, money from the Fund could be used for the maintenance of plantings and sites.

Mr. Anikis closed the public meeting at 7:15 p.m.

MINUTES

Mr. Bowen made a motion to approve the minutes of the July 6, 2009 regular Planning Commission meeting as presented. Seconded by Ms. Parrish. Unanimously approved. Mr. Kercheval abstained.

NEW BUSINESS

- PRELIMINARY CONSULTATIONS

The Good Shepherd Ministries (PC-09-002)

Ms. Kelly presented a preliminary consultation for The Good Shepherd Ministries located along the west side of Longmeadow Road at the intersection with Leitersburg Pike. The church is proposing a 23,400 square foot addition on approximately 13-acres and is zoned BL – Business Local. An existing 8,000 square foot church currently exists on the site. Additional parking and a new access point on Leitersburg Pike is proposed. An existing access point exists on Longmeadow Road. Two bio-retention areas and a septic field are proposed. Ms. Kelly briefly summarized comments received from the reviewing agencies during the preliminary consultation. Mr. Mark Stransky of the County's Engineering Department indicated that a traffic impact study will be required. Trip generation rates and anticipated distribution will be required for review and approval. The traffic counts must be performed during the school year. Mr. Holsinger of Civil Planning & Design, the church's consultant, objected to the traffic study due to the fact that the traffic generated at the site will be primarily during off peak hours. Mr. Stransky stated that the Engineering Department would be open to discussion on this issue. He noted that the project must comply with the County Stormwater Management Ordinance. New regulations will require the use of environmental site design concepts when developing the site. The project must comply with the County's Down Stream Easement Policy. The City of Hagerstown Water Department representative noted there is a 4-inch water meter existing, which is required for fire protection purposes. The Good Shepherd Ministries is proposing two sewer plans for consideration. The first proposed plan will be the construction of a wastewater pumping station with a line along Maryland Route 60 that will discharge into a manhole. The second proposed plan will be the construction of an onsite sewerage system on the property across the ravine. The property is technically in the County; therefore, the County will be responsible for the sewerage system if it is within the Joint Service Area. A representative from the County Health Department noted that perc tests will be required. A 72,900 square foot septic reserve area will be required. However, it is not likely that this requirement will be attainable on the property due to the rocky terrain. The Sheriff's Department expressed concern with regard to the exit on Longmeadow Road and in close proximity to Leitersburg Pike.

Discussion: There was a bit of confusion regarding this comment due to the fact that the exit already exists. Ms. Kelly noted there was discussion and concern expressed during the consultation regarding the proposed exit onto Leitersburg Pike. Mr. Kercheval expressed his concern regarding the proposed access onto Leitersburg Pike. Mr. Holsinger reiterated that the site would be used during off-peak hours. Ms. Kelly stated that forestation requirements have previously been met for the entire site and must be noted on the site plan. She also noted that the use of the addition for worship and education must be noted on the site plan and that parking requirements will be based on these uses. The height requirements for landscaping along the entrance(s) must be met. A photometric plan will be required to show the lighting spillover.

Discussion and comments: Mr. Wiley asked if the proposed parking would be sufficient to address the needs of the church. Mr. Holsinger stated that the number of proposed parking spaces would meet the County's parking standards. However, the need for additional spaces will be dependent upon the number of people attending services. Mr. Wiley expressed his concern for people parking along Leitersburg Pike if an entrance is approved there. Currently, there are 339 parking spaces proposed.

Mr. Kercheval made an inquiry regarding the proposed on-site sewage system. He expressed concern whether the Health Department would allow a septic system in the Urban Growth Area when public sewer is in the vicinity. Mr. Holsinger clarified that the church was proposing an on-site subsurface disposal area (septic system). However, the church would prefer to connect to a public sewer system. There was a brief discussion regarding the location of current sewer lines.

- SITE PLANS

Wooden Keg (SP-09-023)

Ms. Kelly presented for review and approval a site plan for the Wooden Keg Liquor Store located along the south side of Jefferson Boulevard. The site is currently zoned RR – Rural Residential and is approximately 1.5 acres in size. In July 2008, a site plan was reviewed and approved for a 1,300 square foot addition to the existing liquor store. A new site plan has been submitted for a 2,250 square foot addition to the existing store on the west side. The existing building is 1,700 square feet in size and is 18-feet in height. The proposed space will be used for sales. Water service is currently provided by the City of Hagerstown and sewer is on-site. Hours of operation will be 9:00 a.m. to 10:00 p.m. Monday through Thursday, 9:00 a.m. to 11:00 p.m. on Friday and Saturday, and 12:00 p.m. to 8:00 p.m. on Sunday. There will be two employees. Parking spaces required is 6 spaces and there are 10 spaces provided including handicapped spaces, which are signed and striped. No new signs are proposed. There is an existing 20-foot high, 25-square foot sign on the eastern side of the entrance. The existing dumpster will be relocated and screened. There will be one delivery truck per week. An appeal for expansion of a non-conforming use and a variance from the 40-foot setback to 20-feet was granted on May 27, 2009 by the Board of Zoning Appeals. New landscaping is proposed around the northeast corner and along the side of the building. The site is exempt from Forest Conservation Ordinance requirements due to the disturbed area being less than 40,000 square feet. Access to the site will be via Jefferson Boulevard and Sun Valley Drive. All approvals have been received.

Discussion: Mr. Reiber asked what affect, if any, the proposed addition would have on water problems that currently exist in the neighborhood. Ms. Kelly noted that the site is located in a floodplain. She stated that the developer has been working with the County's Engineering Department to resolve any issues. The Engineering Department has not indicated that there would be additional water problems in the area.

Motion and vote: Mr. Bowen made a motion to approve the site plan as presented. Seconded by Mr. Wiley. The motion passed on a 5-1 vote with Mr. Reiber voting "No".

OTHER BUSINESS

Paradise Manor, Lot 4

Ms. Kelly presented for review and approval a request to use the payment in lieu method to meet Forest Conservation Ordinance requirements for Lot 4 of Paradise Manor. The site is located along the north side of Cranberry Court and the east side of Paradise Church Road and is currently zoned RR – Residential Rural and A – Agriculture. Lot 4 is currently 30.32 acres in size. Lot 4 was originally approved in 2004 as a 1.54 acre lot. In 2007, a replat of several lots in Paradise Manor incorporated all of the forest conservation easement onto Lot 4 and removed the easement from portions of Lots 5 through 11 and Lots 30 and 31. As indicated in a letter from the developer's consultant, Frederick, Seibert & Associates, the developer would like to construct a house on the re-platted Lot 4. Access to the site would be via a long driveway from Paradise Church Road. A total of 3.12-acres of forest conservation area would need to be removed to allow for the driveway and proposed house. The consultant is proposing that the developer, Mr. Paul Crampton, be allowed to make a payment in lieu in the amount of \$13,590.72 to meet Forest Conservation Ordinance requirements. The aforementioned letter includes information discussing the priorities outlined in the Forest Conservation Ordinance and the reasons why these priorities cannot be met on this site. Ms. Kelly reviewed the FCO priorities with the Planning Commission and noted that payment in lieu is the lowest priority. Mr. Lung pointed out that the existing forest conservation area is a priority retention area that was identified on the original Forest Stand Delineation. It was also noted that the applicant's statement that staff made an error when approving forest conservation in a power line easement was incorrect because the recorded plat for Lot 4 calls for the abandonment of this power line and easement. Ms. Kelly stated that correspondence has been received by Staff from several neighbors expressing their concern with regard to the Forest Conservation easement that was originally established. She noted that Ms. Carolyn Motz, Manager of the Hagerstown Regional Airport, expressed her concern with regard to bird strikes at the Airport with the additional planting of trees. Ms. Kelly has received correspondence from Commissioner Aleshire as well. All correspondence was forwarded to the Planning Commission prior to the meeting.

Ms. Kelly stated that during previous discussions with Mr. Crampton it was indicated that he would like to remove part of the forest conservation easement area for a sanitary sewer easement. Mr. Lung of the County Planning Department has contacted the Water Quality Department with regard to this issue. Mr. Lung noted that the sewer easement would be used to accommodate Mr. Crampton's proposed development on the Harp Farm on the opposite side of Paradise Church Road. However, the sewer easement is not the only option to serve the Harp Farm property, although it is the preferred option.

Discussion: Mr. Reiber expressed his concern with regard to relocating the house on an approved existing lot that has been designated as a forest conservation area. Mr. Reiber made an inquiry regarding the agreement with the Homeowner's Association and the forest conservation area. Ms. Kelly noted that the County does not enforce HOA agreements and any disagreements between the parties would become a civil issue. Mr. Reiber questioned the replanting of trees on-site because there would be remaining lands. Mr. Ed Schreiber of Frederick, Seibert & Associates, the developer's consultant, stated that there is not enough space remaining in the designated forest conservation area.

Mr. Kercheval expressed his opinion that Lot 4 is currently a buildable lot without disturbing the forest conservation area and although he understands that moving the location of the house would be more desirable, he does not believe there is a hardship that would warrant removing the forest conservation area. Mr. Kercheval noted that many of the neighbors are opposed to the request because they purchased their properties with the understanding that Lot 4 was to remain a permanent Forest Conservation area. He stated he would not support the request for approval of the payment in lieu to meet Forest Conservation Ordinance requirements. Mr. Schreiber stated that the closest house is located 500-feet through a densely wooded forest. Mr. Kercheval stated that the County must report changes in conservation areas to the Department of Natural Resources and why the decisions are made to remove these areas. He does not believe the DNR would favor removing a number one priority forest area. Mr. Wiley and Ms. Parrish concurred with Mr. Kercheval's comments.

Mr. Anikis expressed his opinion that removing the 3+ acres of Forest Conservation Area to create a lot that would need to be served by a well and septic is not favorable. If the house is located on the lot as previously approved, it would be served by public water and sewer. Mr. Anikis did not agree with the Airport Manager's view and believes that removing part of the forest would cause more hazardous conditions for the Airport because it would disturb the existing bird habitat.

Motion and Vote: Ms. Parrish made a motion to disapprove the revised Forest Conservation Plan for Lot 4, Paradise Manor as presented. Seconded by Mr. Reiber. The motion passed unanimously.

Mr. Thompson noted that Staff has been researching alternatives for the maintenance of parks and open space areas in developments where Homeowner's Associations are not present. This research is based

in part from discussions held during the public meeting held in March and subsequent discussions held in April for a text amendment to the Zoning Ordinance for Parks and Open Spaces (RZ-09-005). Mr. Thompson asked the Commission for suggestions at the next meeting.

UPCOMING MEETINGS

1. Planning Commission regular meeting, Monday, August 31, 2009, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown
2. Planning Commission and Board of County Commissioners Joint Public Hearing, Monday, September 14, 2009, 7:00 p.m., Washington County Court House, Court Room #1, 95 West Washington Street, Hagerstown

ADJOURNMENT

The Chairman adjourned the meeting at 8:30 p.m.

Respectfully submitted,

George Anikis, Chairman