

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – August 31, 2009**

The Washington County Planning Commission held its regular meeting on Monday, August 31, 2009 in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Linda Parrish, Sam Ecker, Terry Reiber, Clint Wiley, Drew Bowen and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planner Lisa Kelly, 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 3, 2009 meeting as amended. Seconded by Ms. Parrish. Unanimously approved.

OLD BUSINESS

FCO-09-001

Mr. Stachoviak presented for review and recommendation a text amendment to the Washington County Forest Conservation Ordinance, which proposes changes to the Ordinance to bring it into conformance with new state laws established by Senate Bill 666, approved on June 22, 2009, and House Bill 972, passed in 2008. The Planning Commission held a public meeting to consider the application and hear comments from the public on August 3, 2009. Mr. Stachoviak briefly summarized the proposed changes beginning with Section 3.2 that deals with exemptions. The "immediate family member" exemption is being changed to a child of the owner with a forest disturbance threshold of 20,000 square feet. The amendment proposes language to allow the planting of approved street trees in the Urban Growth Area and Town Growth areas. The amendment also proposes the payment in lieu amount of 30 cents per square foot, which is the minimum amount required by the new State law. The new State law would allow the use of forest conservation fund money to be used for maintenance of existing forests and achieving urban canopy goals.

Discussion: Mr. Anikis made an inquiry with regard to allowing trees in parking lots as part of Forest Conservation requirements. Mr. Stachoviak stated this issue is being considered under separate text amendments for parking and landscaping standards. Mr. Thompson noted that trees in parking lots are also being considered in conjunction with new storm water regulations. Currently, it is not an acceptable practice to count trees as part of the Forest Conservation requirements. Mr. Anikis made an inquiry regarding the maintenance of street trees. Mr. Thompson stated this issue is being considered by the Public Works Department as part of the new street standards. Mr. Kercheval stated that the Public Works Department is more concerned with street trees within the County right-of-ways and interference with public utilities rather than the maintenance of the trees.

Mr. Bowen asked if the County Commissioners have held their public hearing for this text amendment. Mr. Thompson stated that the County Commissioners have held their public hearing; however, no action was taken by the BOCC pending the Planning Commission's recommendation. He noted it was necessary to proceed quickly with the amendment in order to meet the State's deadline for adoption of October 1, 2009. Mr. Thompson stated that a representative of the Homebuilder's Association was present at the hearing to provide comments. Their major concern was the increase in the payment in lieu amount from 10 cents to 30 cents.

Mr. Reiber asked if there are restrictions that would prevent a child who has received a parcel of land from giving that land to their child and asked how long the lot would need to be retained before passing it on to someone else. He expressed concern because there is no way to regulate or enforce the exemption. Mr. Stachoviak stated there is a ten year exemption for a declaration of intent, which is cited in another section of the Ordinance.

Mr. Kercheval stated that the Board of County Commissioners expressed concern with the change in the family member exemption. He stated that there is some question as to the interpretation of the new requirement and if the County must be as strict as the State. Mr. Kercheval noted that the old State law exempted "children and grandchildren" and the County Ordinance was written to exempt children, grandchildren, mother and father. The State approved the County Ordinance as previously written and submitted with justification. Mr. Kercheval stated that the BOCC is also concerned with the increase in the minimum payment in lieu amount. Of utmost concern is the impact on economic development specifically on sites where there were no trees, but because the land has been disturbed the developer must now plant trees or make the payment in lieu. Mr. Kercheval believes that the increase would make it more difficult to attract new businesses and bring employers to the area.

Mr. Wiley believes that the increase in the payment in lieu amount could help preserve more trees in residential developments because developers would pay a higher payment in lieu amount or would need to plant more trees.

Mr. Thompson noted that another significant change in the law is the removal of the exemption for development on existing paved surfaces.

Mr. Kercheval explained that the BOCC will review all comments received from the public and other agencies regarding the proposed changes. A draft will be prepared of the Ordinance with recommended changes and justification for the changes that do not follow the State law as passed. The draft will be sent to the State for its approval.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the proposed text amendments to the Board of County Commissioners, noting the following concerns: the increase in the payment of lieu amount will have a negative impact on economic development in the County; the lack of enforcement on the transfer of lots to family members; and the removal of the exemption for development on existing paved surfaces and its impact on the County. Seconded by Mr. Reiber. The motion passed on a 6-0-1 vote with Mr. Kercheval abstaining.

NEW BUSINESS

- SUBDIVISIONS

Agape Properties, LLC – Lots 2R and 3R (S-09-017)

Ms. Kelly presented for review and approval the Preliminary/Final plat for the re-allotment of Lots 2R and 3R located along the northern side of Shepherdstown Pike (Route 34) southwest of the Town of Boonsboro. The property is currently zoned P – Preservation. Lots 2R and 3R were previously approved in 2006 for residential development. A site plan for the remaining lands was approved in 2007 for a pet crematory. The developer is proposing to re-align the previously approved property line shown on the original plat of this property. Parcel D is proposed to be added to the existing Lot 3R and increasing its size to 6-acres. Lot 2R would have the northern property line adjusted; however, the size of the lot will remain 3-acres. The remaining lands would be reduced from 41-acres to 38-acres in size. Both lots would be served by individual well and septic as previously approved. Both lots will be used for a landscaping service and retail business and will be served by a single entrance onto Route 34. On-site retention of 13.48-acres of existing forest was previously approved in order to meet Forest Conservation requirements. All agency approvals have been received.

- SITE PLANS

Mike Van Fleet (SP-09-024)

Ms. Kelly presented for review and approval a site plan for Mike Van Fleet for the construction of a landscaping business on Lots 2R and 3R. Lot 2R will contain a 3,200-square foot office building for a landscaping retail business. A 4,800-square foot storage building is also proposed for the sale of nursery plants, mulch and stone. Lot 3R is proposed for a landscape service. No commercial or retail sales will be conducted on Lot 3R. A 6,000-square foot building for the storage of lawn equipment is proposed. The remainder of the lot will be used to store landscaping plants. All buildings will be 30-feet in height. Exterior lighting on all buildings will be wall-pack dusk till dawn lights. The hours of operation for both sites will be 6:00 a.m. to 6:00 p.m. Monday through Saturday. Lot 2R will have 3 employees and Lot 3R will have 5 employees. Parking spaces required for Lot 2R is 4 spaces and 6 spaces will be provided. Parking spaces required for Lot 3R is 5 spaces and 5 spaces will be provided. One handicapped space per lot will be provided. There will be one tractor trailer delivery per week. Storm water management is provided by one bank pond and three sand filters. No signs are proposed at this time. All agency approvals have been received.

Discussion: Ms. Kelly stated that she made a site visit to check on buffering requirements that may be needed for the site. There is a 50-foot buffer requirement from the property line and the existing trees would provide adequate buffering between this site and adjoining properties, which are currently used for growing crops. No development currently exists between this site and Monroe Road.

Mr. Kercheval made an inquiry regarding a future sign for the property. Ms. Kelly stated that if the owners decided to install a sign, a building permit would be required. A scaled drawing would be required at that time and the Department of Permits and Inspections would oversee conformity of the sign to the requirements of the Zoning Ordinance.

Ms. Parrish made an inquiry regarding the panhandle located on the right side of the property. Mr. Schreiber of Frederick, Seibert & Associates, consultant, stated that the panhandle was created during the original subdivision of the property.

Mr. Anikis expressed his concern with regard to the height and appearance of the buildings because “this is the gateway to the National Battlefield”. Ms. Kelly suggested that the Planning Commission could require the developer to retain or plant trees as a buffer. Mr. Schreiber noted that the property is located next to agricultural property and he did not believe that additional buffering is necessary. He also pointed out that there is a lot of grading that will need to be done on the site and part of the trees may need to be

removed within the 50-foot buffer area to accommodate the grading. Ms. Parrish expressed her opinion that, if possible, the trees should be preserved. She indicated that there could be development in the future on adjoining properties and buffering would be needed. Mr. Schreiber pointed out that the trees in the buffer are not located in a priority area and the developer is retaining more than 13 acres of trees to meet Forest Conservation requirements. Mr. Reiber expressed his opinion that the trees in the buffer area should be retained. Mr. Anikis concurred. Mr. Schreiber used a copy of the site plan to show Commission members the tree line and buffer area being discussed and approximately how much of the buffer area contains trees. Mr. Wiley expressed his opinion that if the landscaping business exists when adjoining properties are developed, it should be the developer's responsibility of the adjoining property to provide the buffering. Mr. Kercheval concurred with Mr. Wiley's comment. He also noted it is not always feasible to keep trees especially if it prohibits the best grading for a site. Mr. Schreiber stated they would work with the Planning Department, Engineering Department and Soil Conservation District during the pre-construction phase to save as many of the trees as possible.

Motion and Vote: Mr. Bowen made a motion to approve the Preliminary/Final plat for the re-allotment of Lots 2R and 3R as presented. Seconded by Mr. Kercheval. Unanimously approved.

Motion and Vote: Mr. Bowen made a motion to approve the site plan with the condition that the developer preserves as many trees as possible in the buffer area. Seconded by Mr. Wiley. Unanimously approved. Unanimously approved.

OTHER BUSINESS

RZ-09-005 AND SO-09-002 – Parks and Open Space Text Amendments

Mr. Thompson began discussions regarding the Parks and Open Space Text Amendments which were presented at a public meeting on March 16, 2009. Members expressed concern during the public meeting with regard to the ownership and maintenance of the open space areas. Mr. Stachoviak has been researching other counties ordinances to see how they deal with ownership and maintenance issues. He distributed a comparison chart summarizing the criteria used by the City of Hagerstown, Frederick County and Harford County. Members briefly reviewed the chart and Staff's proposal for the dedication of parks and/or open space areas. There were discussions regarding mandatory homeowners associations, the number of lots that would require homeowners associations and the requirements for square footage, slope, floodplain, etc. Currently, the County does not require the dedication of parks/open space area except in Planned Unit Developments. Mr. Bowen asked if storm water management areas could be counted as open space area in the future. Mr. Thompson does not believe it would be counted because many of the storm water management areas must be fenced; therefore, they are not accessible. Mr. Stachoviak noted that the definition of open space states, "storm water management facilities shall not constitute open space".

Mr. Bowen expressed his opinion that requiring open space in developments is a good idea; however, it should not become a burden on the County.

Mr. Thompson stated that he contacted the County Attorney's Office with regard to collecting a payment in lieu amount for open space area. He noted that money is collected for parks in the excise tax and therefore, the County cannot collect a payment in lieu.

Mr. Kercheval expressed his opinion that some of the regulations used in Harford County should be looked at more closely.

UPCOMING MEETINGS

1. Planning Commission and Board of County Commissioners Joint Public Hearing, Monday, September 14, 2009 at 7:00 p.m., Washington County Court House, Room 1, 95 West Washington Street, Hagerstown
2. Planning Commission Regular Meeting, Monday, October 5, 2009, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown
3. Planning Commission Workshop Meeting, Monday, October 19, 2009, 1:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown

ADJOURNMENT

Mr. Ecker made a motion to adjourn the meeting at 8:30 p.m. Seconded by Mr. Reiber. So ordered.

Respectfully submitted,

George Anikis, Chairman