

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – November 2, 2009**

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

Members present were: George Anikis, Linda Parrish, Sam Ecker, Terry Reiber, Drew Bowen and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planners Timothy A. Lung and Stephen Goodrich, Senior Planners Lisa Kelly and Misty Wagner-Grillo, Planner Cody Shaw 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 October 5, 2009 meeting as amended. Seconded by Mr. Ecker. Unanimously approved.

OLD BUSINESS

RZ-09-006 Text Amendment

Mr. Goodrich presented for review and recommendation a text amendment to Article 22, Section 22.21(g) to remove the time limit on the posting of election signs. The text amendment was presented during a public meeting on October 5, 2009. Mr. Goodrich noted that no persons spoke in favor of or against the proposed text amendment. After the Planning Commission makes its recommendation, the Board of County Commissioners will hold a public hearing on the proposed amendment.

Discussion: Mr. Kercheval stated that he spoke with the County Attorney's Office regarding the 45 day time limit for the erection of campaign signs. The County Attorney will further investigate the time limitations for compliance with the freedom of speech act. Ms. Parrish expressed her opinion that the proposed change to the Ordinance is not needed.

Motion and Vote: Ms. Parrish made a motion to recommend denial of the proposed text amendment to the Board of County Commissioners. Seconded by Mr. Bowen. The motion passed with Ms. Parrish, Mr. Bowen and Mr. Ecker voting "Aye", Mr. Reiber voting "No" and Mr. Kercheval abstained.

Paradise Manor, Lot 4

Ms. Kelly presented for review and approval a request to relocate 1.15 acres of existing forest in Paradise Manor for a future sanitary sewer easement. This request was reviewed by the Planning Commission during its October 5, 2009 meeting and a motion to table the request was passed pending further clarification by the developer. The applicant/developer, Paul Crampton, is proposing to plant 4.6 acres of forest on an adjacent property (the Harp Farm), which he also owns. The proposed development of the Harp Farm would require 11.66 acres of forest to meet current Forest Conservation Ordinance requirements. A total of 16.26 acres of forest would be required for retention and afforestation of both properties.

Discussion: A drawing was presented showing the proposed areas to be planted and the sensitive areas that would be protected.

Motion and Vote: Mr. Bowen made a motion to amend the reforestation plat for Paradise Manor to allow the proposed sanitary sewer easement by relocating 1.15 acres of forest plantings on the Harp Farm property. Seconded by Ms. Parrish. Unanimously approved.

Brookmeade Apartments

Mr. Thompson presented a request from the County Attorney's office for a continuance of the Brookmeade Apartments Forest Conservation request. He noted that discussions between the attorney for Brookmeade Apartments, Mr. Schubel, and the County Attorney's office are on-going. The Planning Commission, during its October 5, 2009 regular meeting, denied a request by Brookmeade Development LLC for payment-in-lieu to meet Forest Conservation requirements.

Discussion: Mr. Kercheval expressed his disappointment that the issue was not resolved within the 30 day time frame given to the applicant at the October 5th meeting. He further stated that the land on which the forest easement was placed was owned by Whitetail Development LLC. Mr. Kercheval stated that he believed the land was owned by the applicant (Brookmeade Development LLC).

Commission members discussed setting a definitive date on which the issue must be resolved or the applicant will be fined \$1,000 per day for non-compliance. Mr. Anikis recommended that the issue be resolved prior to the December 7th meeting date. If the issue is not resolved, the County will begin assessing the \$1,000 per day non-compliance fine. Commission members, by consensus, agreed to the recommendation.

NEW BUSINESS

- MODIFICATIONS

Dale Price (SV-09-013)

Mr. Shaw presented for review and approval a modification request from Section 405.11.G.5 of the Subdivision Ordinance, which limits the maximum length of a panhandle to 400-feet. The property is located along the north side of Bakersville Road, approximately 1.23 miles west of the Sharpsburg Pike (Tax Map 66, Grid 18, Parcel 12) in a permanent agricultural easement. The total site acreage is 252.9 acres and is zoned A(R) – Agricultural Rural. The existing and proposed use of the property is for agriculture. The property is proposed to be conveyed to an immediate family member. The applicant is requesting the creation of a 1603 foot panhandle to access an existing landlocked lot of record. The applicant's reason for the variance is due to the irregular shape of the parcel and the explanation of hardship cited on the modification application states: "The two existing parcels in question, both owned and farmed by the applicant, are currently divided in an east-west direction, which landlocks the 88 acre parcel. The applicant wishes to divide the property in a north-south direction thus providing both parcels with road frontage (one parcel by way of the proposed panhandle). This is primarily being done for estate planning purposes." Mr. Shaw stated that the modification request was sent to the County's Engineering Department and Fire and Emergency Services. The Engineering Department responded with the following comments that must be addressed prior to approval: the proposed entrance must meet the County's requirements for adequate sight distance, new entrances must be spaced a minimum of 100-feet from any existing entrance, a 30-foot right-of-way dedication is required, the panhandle width must be 25-feet (the proposed panhandle is 30-feet wide), the panhandle should be widened to 50-feet along the frontage on Bakersville Road and the project must comply with the County's Storm Water Management Ordinance at the time of permitting. The Department of Fire and Emergency Services responded with the following comments: access roads should have an unobstructed width of 20-feet and 13.5 feet of vertical clearance, supporting driveways over 150-feet in length should have an unobstructed width of 12-feet and 13.5 feet of vertical clearance, the road shall be designed and constructed to accommodate the load and turning radius of large apparatus typically used to respond to a specific location, and any road in excess of 300-feet in length shall be provided with approved turnarounds. Staff has no objection to approving the request contingent upon all issues cited by the Engineering Department and Fire and Emergency Services being addressed.

Discussion: Mr. Kercheval asked for clarification of the location of the proposed right-of-way in relation to the existing driveway for Cedar Hill Farms. Mr. Schreiber of Frederick, Seibert & Associates, Inc., the owner's consultant, stated the right-of-way is on the east side. He noted that the plan has been changed slightly and there will be a shared driveway. Mr. Kercheval stated that a maintenance agreement will be required for the shared driveway and a turn around for emergency vehicles will also be required. Mr. Reiber expressed his opinion that the maintenance agreement should be recorded as part of the deed. There was a brief discussion regarding the maintenance agreement and the responsible party for its preparation. The maintenance agreement for the shared driveway should be noted on the subdivision plat as well as the requirement for a turn around when a dwelling is built on the parcel. Mr. Bowen clarified that final approval of the subdivision plat will be granted following recordation of the maintenance/use agreement.

Motion and Vote: Mr. Kercheval made a motion to approve the modification request for a panhandle length of 1603-feet to the existing landlocked lot of record contingent upon all County Engineering Department and Department of Fire and Emergency Services requirements being met, the use/maintenance agreement for the shared entrance between this lot and the lot owned by Cedar Hills Farm LLC is noted on the subdivision plat, the turn around requirement is noted on the plat and proof must be provided that the maintenance agreement has been recorded prior to final approval of the subdivision plat. Seconded by Mr. Reiber. Unanimously approved.

- SUBDIVISIONS

Williamsview I (PP-07-003)

Ms. Wagner-Grillo presented for review and approval the preliminary plat for Williamsview I (Ebersole property) located along the north side of Kendle Road west of Maryland Route 632. In February 2007, the Planning Commission approved the clustering concept for this development, which allows the reduction of lot areas without increasing the density. The property is zoned A – Agriculture and is located in the Urban Growth Area (UGA). The developer is proposing 214 single-family lots on 138.15 acres. The development is located in the Williamsport Elementary, Springfield Middle and Williamsport High school districts. The Halfway Volunteer Fire and Rescue Company would serve the development. Water service would be provided by the City of Hagerstown and sewer service would be provided by the Washington County Department of Water Quality. No floodplains or wetlands exist on the parcel. Minimum building setbacks will be 30-feet in the front, 10-feet on the side and 40-feet in the rear. The average proposed lot size is .40-acre. Storm water management will be provided through four storm water management ponds, containing approximately 12.14-acres. Open space area is approximately 19.9% or 21.9 acres of the net tract area. Forest Conservation requirements would be met by planting trees on-site, which would be contained in the open space areas and the majority of the rear part of the proposed lots. No construction drawings were submitted with the preliminary plat; therefore, no traffic studies have been submitted to the County Engineering Department for their review. Mr. Mark Stransky of the County Land Engineering Department submitted the following comments to Staff: "Land Development Engineering has not seen, reviewed or approved any improvement plans or construction plans for this project. We have only approved the preliminary plat; therefore, we have not given final

approval to any roadway sections, storm water management or grading.” Ms. Wagner-Grillo stated that a note has been added to the plans on Sheet 6, which states, “The configuration and number of lots may change in order to comply with roadway design criteria and storm water management regulations.” The new storm water management regulations must be used for any project that does not have a grading permit by May 4, 2010. Gatling Drive will be a designated through road and will connect to Maryland Route 632 (Downsville Pike). It will also go through the Halteman property and connect to an industrial area as indicated by the future right-of-way extensions shown on the plat. The roadway sections shown on the plat may be revised on the improvement/construction plans. Previously, Staff recommended that some of the open space areas should not be used for Forest Conservation areas as proposed because these areas cannot be used for recreational activities. In 2007 during its review, the Planning Commission recommended access to the open space areas for walking trails. Access has been provided to a majority of the open space areas. Staff is recommending that all lots have access to the open space areas and that some of the open space areas should be reserved for recreation. Ms. Wagner-Grillo showed Commission members the historic properties surrounding the proposed development. The historic dwelling on the Halteman property is bordered by storm water management and forest conservation areas. There is a historic dwelling across Kendle Road and another at the point of Edward Doub Road, which is next to a storm water management area. There is also a historic dwelling on the Britner property. The Historic District Commission, in 2007, recommended buffering for all of these properties. All agency approvals have been received.

Mr. Jeremy Rutter, the developer's representative, was present at the meeting. He stated that in other developments that his company has built, forest trails in the conservation areas do not work well due to privacy and safety issues. He stated that the forest is being used as a buffer. Mr. Rutter noted that by using the cluster concept design, 11 acres of forest would be saved. He believed that the open space issue had previously been resolved.

Discussion and Comments: Mr. Reiber expressed his concern regarding pedestrian access and sidewalks. Ms. Wagner-Grillo stated that the developer was provided with copies of the Planning Commission meeting minutes from 2007 and they were made aware of this issue. Mr. Rutter stated that all lots will be given access to the open space areas and sidewalks have been added. However, the developer did not believe that walking trails were needed because sidewalks have been provided. Mr. Kercheval stated that the Department of Public Works has been reviewing the overall transportation needs of the County during the past year. He noted that this area has been examined and Gatling Drive was proposed in an effort to get traffic diverted toward Downsville. Mr. Kercheval noted that the industrial area to the north of the site has been recommended by the Urban Growth Area Advisory Committee to be rezoned for residential uses. The Economic Development Commission agreed with that recommendation and believes that the railroad tracks to the rear of the industrial area would be a good dividing point between residential and industrial development on the other side of the tracks. There was a brief discussion regarding the transportation plan for the County and how the design of this development would help alleviate some of the issues. Mr. Anikis asked what guarantee the developer has that he will be able to gain access across the adjacent properties to Downsville Pike. Mr. Tim Fagee, the developer's representative, stated there are no guarantees. He noted that the road system was proposed by the County's Public Works Department and not the developer. Mr. Anikis expressed his concern that if the proposed road does not come to fruition, the only access for the development would be onto MD Route 68 or another route. Mr. Fagee noted that the development would have access to Kendle Road. However, as the area develops other routes would be possible. Mr. Anikis expressed his concern that there is no open space area for recreational purposes in this development. He also expressed his opinion that the Homeowner's Association should be vigilant to insure that the trees in the Forest Conservation areas are not cut down by homeowners. These areas need to be posted with the appropriate signs.

Motion and Vote: Mr. Bowen made a motion to approve the preliminary plat contingent upon the developer providing access to all open space areas. Seconded by Ms. Parrish. Unanimously approved.

- SITE PLANS

115 Downsville Cell Tower (SP-09-038)

Ms. Kelly presented for review and approval a site plan for a monopole cell tower to be located along the west side of Jordan Road near Fairplay. The property is zoned A(R) – Agricultural Rural. A private lane that connects to Jordan Road will serve the site. The developer is proposing to construct a 190-foot monopole communications tower designed for four carriers on a leased area of 60 x 100 feet. The leased property is owned by Downey Farms, Inc. with a total parcel area of 159-acres. The leased area will include a 40 x 80 foot fenced compound with the monopole tower, a concrete pad and equipment cabinet. Three additional areas for concrete pads for future carriers will also be on the site. An 8-foot fence with barbed wire will encircle the pads and tower with an identification sign posted on the fence. The minimum setback requirement is 200 feet. The disturbed area of the site will be less than 40,000 square feet; therefore, there are no Forest Conservation requirements. The site will be located in a wooded area, which cannot be seen from Jordan Road. The Board of Zoning Appeals granted a special exception for the proposed tower in March 2009. All agency approvals have been received.

Discussion and Comments: Ms. Parrish asked if there would be space reserved for the County on the proposed tower. Ms. Kelly stated that a note has been included on the plan providing space for 911 and County use. Mr. Thompson noted there was a recent amendment to the Zoning Ordinance requiring space for the County on all cell towers.

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

Gapland MD – 100 Cell Tower (SP-09-028)

Ms. Kelly presented for review and approval a site plan for a unipole cell tower located along the east side of Kaetzel Road south of Gapland. The property is zoned P – Preservation and the existing use is agriculture. The developer is proposing to construct a 109-foot unipole communications tower on a leased area of 1.27 acres, with a total tract area of 45.6-acres. The leased area will include a 40 x 80-foot fenced area with a unipole tower, a concrete pad, a cabinet for equipment, and locations for 5 additional pads. A 6-foot fence with barbed wire will encircle the pads and tower and will include an identification sign on the fence. A 110-foot setback is required from all property lines and a 309-foot setback is required from all residential properties. There are no overhead transmission lines in the area. The unipole will not be lit and will be painted in park service brown as required by the Board of Zoning Appeals. The tower will be situated in an area of mature vegetation on a plateau. The 12-foot gravel access road to the site will connect with Kaetzel Road. Easement agreements have been signed with the property owner to insure that the property does border Kaetzel Road. All lease documents, photo simulations and environmental site assessments have been submitted to the Planning office and were presented at the Board of Zoning Appeals hearing. The Forest Conservation Ordinance requires the planting of 1.35-acres of trees; however, the developer is requesting to make a payment-in-lieu to meet these requirements, which would equal \$5,880.60. The payment-in-lieu meets the requirements established for the “express procedure”. The Board of Zoning Appeals granted a special exception in July of 2007 for the cell tower. County Engineering Department approvals are pending; all other agency approvals have been received.

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

OTHER BUSINESS

Mr. Thompson stated that the Maryland Department of Planning will now be requiring Planning Commission members, Board of Zoning Appeals members, etc. to receive training. The MDP will be offering on-line courses in the near future to assist members in meeting these requirements.

Mr. Thompson stated that a site plan was received for the new mathematics and science building proposed at the Hagerstown Community College. Staff has also received a copy of the College’s overall master plan. Mr. Thompson would like the College to present the master plan to the Planning Commission and the Planning Commission to give Staff the authority to approve individual site plans meeting all County requirements as they are submitted.

UPCOMING MEETINGS

1. Planning Commission Workshop Meeting, Monday, November 16, 2009, 3:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown
2. Planning Commission Workshop Meeting, Monday, November 23, 2009, 3:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown
3. Planning Commission Regular Meeting, Monday, December 7, 2009, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown

ADJOURNMENT

Mr. Bowen made a motion to adjourn the meeting at 8:30 p.m. So ordered.

Respectfully submitted,

George Anikis, Chairman