

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – December 7, 2009**

The Washington County Planning Commission held a rezoning public meeting and its regular meeting on Monday, December 7, 2009 in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: George Anikis, Linda Parrish, Terry Reiber, Drew Bowen, Clint Wiley and Ex-Officio James F. Kercheval. Staff members present were: Planning Director Michael C. Thompson, Chief Planner Timothy A. Lung, Senior Planners Lisa Kelly and Jill Baker, Planner Cody Shaw and Administrative Assistant Debra Eckard.

CALL TO ORDER

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

RZ-09-007 – Text Amendment

Ms. Baker presented for review and recommendation a text amendment to Articles 25 and 28 of the Washington County Zoning Ordinance. The purpose of the amendment to Article 25 is to create an abbreviated administrative process to review and decide upon relatively minor variance requests that have a minimally invasive impact on neighboring properties. The amendments to Article 28 are being proposed to create an abbreviated administrative process to correct minor errors in mapping with regard to the official zoning maps of the County. Ms. Baker noted that a sample of the filing procedures for administrative adjustments was included in the Planning Commission's agenda packets per requests by Commission members when the proposed text amendment was reviewed during the October 18, 2009 workshop meeting. She stated that the Board of Zoning Appeals reviewed the text amendments and requested a few minor changes with regard to language dealing with persons aggrieved by an approved variance request. Ms. Baker briefly explained the filing procedures.

Discussion and Comments: Mr. Kercheval made an inquiry regarding the phrase "minimally-invasive, and unopposed adjustments" in the purpose statement of the filing procedures. Ms. Baker stated that the proposed amendments would apply to only minor adjustments. If there are concerns by the Zoning Administrator or the public, the case would be heard by the Board of Zoning Appeals. Mr. Kercheval questioned the language and believes it is contradictory. Following a brief discussion, Ms. Baker stated that the word "unopposed" would be deleted. Mr. Kercheval requested that the same language in Section 25.8(b)4 should be added to item 7 of the filing procedures. He also requested that the phrase "on a de novo basis" be explained for the benefit of the general public.

Public comment: Mr. Ed Schreiber of Frederick, Seibert and Associates, 128 South Potomac Street, Hagerstown, MD, stated that they are in favor of the proposed text amendments as presented.

Motion and Vote: Mr. Reiber made a motion to recommend approval of the proposed text amendments with the suggested changes to the Board of County Commissioners. Seconded by Mr. Wiley. The motion passed on a 5-0 vote with Mr. Kercheval abstaining.

Mr. Anikis closed the public meeting at 7:12 p.m.

MINUTES

Mr. Kercheval made a motion to approve the minutes of the November 2, 2009 meeting as presented. Seconded by Mr. Reiber. Unanimously approved.

OLD BUSINESS

Brookmeade Apartments

Mr. Thompson provided Commission members with an update on this issue that was originally presented to the Planning Commission during its October 5, 2009 regular meeting. The County Attorney's Office has determined that the easement in question is still in existence; therefore, the developer is in compliance with the Forest Conservation Ordinance requirements. Mr. Thompson led a discussion regarding measures that the Planning Commission would like to take if the property is foreclosed upon in the future and the owner is no longer in compliance.

Discussion and Comments: Mr. Kercheval stated that the issue of compliance is "a gray area" because there is nothing written in the Ordinance that addresses free and clear title to an easement or liens on the property where an easement is located. He noted that Mr. Elmer Weibley of the Washington County Soil Conservation District has offered suggestions for future off-site easements. Mr. Kercheval briefly explained that the bank's position is that the property owner did not clear the easement with them; therefore, the bank does not believe that the property owner had the right to sell the easement. In the event that the property is foreclosed upon by the bank, the easement will be rescinded. Mr. Bowen expressed his opinion that if the property is foreclosed upon and the easement is rescinded, the property owner should be fined \$1000 per day for non-compliance when the paperwork for foreclosure has been filed in court. He believes that a letter should be sent to both property owners to inform them of the Planning Commission's decision.

Motion and Vote: Mr. Bowen made a motion to send a notice to the property owners that if the easement is rescinded, the County will issue a non-compliance order with a fine of \$1,000.00 per day for each day the non-compliance exists. Seconded by Ms. Parrish. The motion passed with a 5-0 vote with Mr. Reiber abstaining.

NEW BUSINESS

- MODIFICATIONS

Neal E. Beard, Lots 1-3 (SV-09-016)

Mr. Shaw presented for review and approval a modification request from Sections 405.11.G.2, 3 and 5 of the Subdivision Ordinance, which states that no more than 4 panhandles are permitted from the original tract of land, no more than 2 panhandles can have an adjoining driveway entrance to a public right-of-way and the panhandle lengths shall not exceed 400-feet. The property is located on the west side of Wheeler Road (Tax Map 68, Grid 19, Parcel 434). The total lot acreage is 3.75-acres, the total site acreage is 45.5-acres, and the property is zoned P – Preservation. The existing land use is agriculture and the proposed land use is residential. The applicant is requesting the creation of two lots with panhandle lengths of approximately 1100-feet in length and the creation of 3 panhandle lots plus the remaining lands would share a driveway entrance, which would create the 7th panhandle from the original tract of land. Mr. Shaw read the Statement of Justification for the modification request as written on the application. He noted that the request was sent to the following agencies for their review and comment: Washington County Engineering Department, Washington County Fire and Emergency Services Department and the Boonsboro Fire Department. Based upon comments received from these agencies, Staff believes there are three options for the Planning Commission and Mr. Shaw briefly explained these options.

Discussion and Comments: Mr. Ed Schreiber of Frederick, Seibert & Associates, the applicant's consultant, addressed the Planning Commission with regard to the comments received from the above mentioned agencies.

- 1) The Engineering Department recommends that the developer be required to obtain an easement on the Keadle property as a condition for plat approval to meet sight distance requirements. Mr. Schreiber stated that Mr. Keadle has agreed to provide the easement, which will be recorded in the County's land records. Mr. Anikis asked who would maintain the easement. Mr. Bowen recommended that a maintenance agreement should be recorded with the deed of easement so there is no question in the future who maintains the easement area.
- 2) Mr. Schreiber stated that stormwater management will be addressed at the time of permitting.
- 3) Mr. Schreiber stated that the applicant has no problem addressing the comments made by the Fire and Emergency Services Department. There is an existing milled lane approximately 20-feet wide that goes to all of the proposed house sites. There are no obstacles that would obstruct the recommended 13.5 foot vertical clearance. The applicant will provide turn-arounds for fire apparatus.
- 4) Mr. Schreiber stated that the Boonsboro Fire Company recommends that the shared driveway be paved, which would be very costly for the developer. He believes that the milled surface would be adequate. The maximum grade allowance for the driveway and minimum radii for any turns is not a problem. The applicant will provide the minimum 10-foot by 40-foot pull offs every 800-feet as requested for the relay of water. Mr. Schreiber stated that the developer would not have any control with regard to the recommended sprinkler systems for homes over 1800 square feet. The County does not currently have any requirements for sprinkler systems.

In closing, Mr. Schreiber stated that the developer has no objection to any of the recommendations of the agencies with the exception of the sprinkler systems and the paving of the driveway. He added that there is no further subdivision potential for the property based on the density requirements of the Preservation zoning district. He also noted there is an existing residence on the property served by the existing driveway.

Ms. Parrish expressed her opinion that the recommended sprinkler systems are "above and beyond" Planning Commission requirements and should be considered as a "buyer beware" situation. She recommended a maintenance agreement for the easement and the proposed turn-arounds. Ms. Parrish expressed her opinion that paving of the driveway is not necessary.

Mr. Wiley concurred with Ms. Parrish's comments and stated that his main concern is the maintenance agreement.

Mr. Kercheval requested that the pull-off locations be shown on the subdivision plat when it is submitted for review and approval. He believes that sprinkler systems should be required on homes that are a specific distance from fire hydrants and should be standardized for all rural developments; however, the County does not have a requirement at this time. Mr. Kercheval also agreed that a maintenance agreement is needed for the easement area. There was a brief discussion regarding the maintenance agreement and who should be responsible for the maintenance of the easement area.

Mr. Reiber stated that because sprinkler systems are not currently required by the County, it is the discretion of the home builder. He stated that the pull-offs, access and turn-arounds should be required. Mr. Reiber also agrees that a maintenance agreement is needed and should be recorded.

Mr. Anikis expressed his opinion that a maintenance agreement should be recorded for the shared driveway. Mr. Schreiber stated that the maintenance agreement will be prepared and recorded prior to the recordation of the subdivision plat. The subdivision plat will then reference the ownership and maintenance of the agreement. Mr. Anikis asked if the applicant could provide the comments and information from the Boonsboro Fire Company to potential home builders with regard to sprinkler systems. Mr. Kercheval suggested that a note be put on the plat regarding the recommendation of sprinkler systems. Mr. Thompson stated that the County Attorney should approve the note prior to putting it on plats.

Motion and Vote: Mr. Kercheval made a motion to approve the modification request contingent upon all conditions of the Washington County Engineering Department, Washington County Fire and Emergency Services Department and the Boonsboro Fire Company being met with the exception of the paved driveway and sprinkler systems for homes over 1800 square feet [recommendation to be noted on the subdivision plat, if approved by the County Attorney's Office]. Approval is also contingent upon a maintenance agreement for the shared driveway and the sight distance easement. Seconded by Ms. Parrish. Unanimously approved.

- SITE PLANS

David Rider Jet Center Expansion (SP-09-043)

Ms. Kelly presented for review and approval a site plan for the David Rider Jet Center located along the west side of Pennsylvania Avenue (Route 11) and adjacent to Jarkey Drive. The property is currently zoned AP – Airport and BG – Business General. The building will be located on 2.2 acres within the 378 acre Airport tract. The developer is proposing to build a 3-story building for the Sierra Nevada Corporation, which will be used for research and development and offices. The building area will be comprised of 13,624-square feet. The site will be served by public water from the City of Hagerstown and public sewer from the Washington County Department of Water Quality. One access will be provided onto Jarkey Drive and one access onto an unnamed private drive located to the north. There will be no direct access to Route 11. The hours of operation will be 24 hours per day 7 days per week. There will be approximately 100 employees. Parking spaces required is 105 spaces and 116 parking spaces will be provided. There will be 5 tractor trailer deliveries per week. A dumpster and recycling facility will be shared with the existing Sierra Nevada office building across the street. Signs will be building mounted. Landscaping will be provided throughout the site with Dogwoods and ink berry shrubs. On November 18, 2009, the Board of Zoning Appeals granted a variance from the minimum 150-foot front yard setback requirement to 98-feet. Forest Conservation requirements will be addressed through one plan for the entire Airport. All agency approvals have been received. The State Highway Administration has requested a future right-of-way of 75-feet that would interfere with parking; however, the right-of-way is not needed for at least 20 years. The SHA has agreed to let the parking proceed as currently planned.

Discussion and Comments: Ms. Parrish questioned the construction of a 3-story building at the Airport. Mr. Gordon Poffenberger of Fox & Associates, Inc., the consultant, stated that the building will not be in the Airport flight path.

Ms. Kelly stated that the State Highway Administration requested that traffic analysis information be submitted to them from the County's Department of Public Works. The information is currently being gathered and will be submitted to the SHA.

Mr. Anikis noted the need for an additional 1600 gallons of water per day (8 edu) and asked if an agreement has been established with the City of Hagerstown. Mr. Poffenberger stated that 14 edu's are needed because the allocated edu's for the former hotel are being retained by the County. An agreement has been established with the City. Mr. Anikis expressed his concern for security at the Airport and noted that the guard house has been closed and vehicles can enter the Airport property.

Motion and Vote: Mr. Bowen made a motion to approve the site plan as presented. Seconded by Mr. Kercheval. The motion passed on a 5-0 vote with Mr. Reiber abstaining due to conflict of interest.

UPCOMING MEETINGS

1. Planning Commission Workshop Meeting, Monday, December 14, 2009, 3:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown
2. Planning Commission Regular Meeting, Monday, January 4, 2010, 7:00 p.m., Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown

ADJOURNMENT

Ms. Parrish made a motion to adjourn the meeting at 8:10 p.m. Seconded by Mr. Bowen. So ordered.

Respectfully submitted,

George Anikis, Chairman