

**WASHINGTON COUNTY PLANNING COMMISSION
WORKSHOP MEETING – January 11, 2010**

The Washington County Planning Commission held a workshop meeting on Monday, January 11, 2010, at 3:00 p.m. in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Terry Reiber, Clint Wiley, Drew Bowen, Sam Ecker (arrived at 3:50 p.m.) and Ex-Officio James Kercheval (arrived at 3:15 p.m.). Staff members present were: Planning Director Michael C. Thompson, Chief Planner Steve Goodrich, Planner Fred Nugent, and Administrative Assistant Debra Eckard. Ms. Carolyn Motz, Director of the Hagerstown Regional Airport was also present at this meeting.

CALL TO ORDER

Chairman George Anikis called the meeting to order at 3:05 p.m.

MINUTES

Mr. Reiber made a motion to approve the minutes of the December 7, 2009 Workshop meeting as presented. Seconded by Mr. Wiley. Unanimously approved.

Mr. Wiley made a motion to approve the minutes of the December 14, 2009 Workshop meeting as presented. Seconded by Mr. Reiber. Unanimously approved.

DISCUSSIONS

Mr. Thompson announced that the training course required by the State of Maryland for Planning Commission members is now available on-line. Staff will provide the Commissioners with the website address and copies of available information in the near future.

Continued Discussions of the Proposed UGA Rezoning

Mr. Anikis began discussions on the Airport zone relative to mitigation for wildlife attractants. He expressed his opinion that the proposed language and structure for wildlife mitigation is not helpful in solving the issues for the County, the Airport or the agricultural community. He believes that the proposal pushes the problems into the future for others to deal with. Mr. Reiber asked how existing agricultural operations will be affected and if there are major issues currently at the Airport that are causing concern. Ms. Motz stated that annually she attends a Federal Aviation School at Penn State University, which highlights issues at airports across the country. Due to the liability at airports for injuries, death and property damage, the main topic of discussion during the latest class was bird strikes and wildlife mitigation. Ms. Motz stated that the Advisory Circular, which is referenced within the proposed text of the AP zone, was distributed to attendees and referenced frequently throughout the course of the class. The FAA stressed the importance of being active with people who create the laws and ordinances dealing with issues within the local communities. The goal is to ensure “at the very least, airport operators are on the notification list of the local planning board or equivalent review entity for all communities located within 5 miles of the airport, so they will receive notification of any proposed project and have the opportunity to review it for attractiveness to hazardous wildlife.” Ms. Motz expressed her opinion that the Airport operator has the right to know if there are issues that could cause problems. She noted that it is not her intention to stop agricultural operations and that she does not have any “veto” power. Ms. Motz stated that she has forwarded the proposed text to the biologist for the FAA Eastern Region for review to ensure that all requirements of the Advisory Circular are being met.

Mr. Goodrich reiterated that the Airport is only asking for the opportunity to review applications and, if necessary, to work with the applicant to find a suitable mitigation plan for potential hazards. Mr. Thompson pointed out that the FAA recognizes land use is a local issue. Mr. Goodrich stated that the amended regulations are designed to apply to new site plans and animal husbandry operations and does not affect current operations.

Mr. Anikis asked if new applications should be required to submit a mitigation plan as part of their proposal or should the Airport review the application first to determine if mitigation will be needed. Mr. Goodrich stated that not every proposal will require a mitigation plan; therefore, the application should be reviewed first to determine if mitigation is needed. There was a brief discussion regarding the current review process and communication between Staff and applicants. Mr. Anikis asked if a time limit should be imposed from the time the Airport has been notified of the proposed operation to the time the applicant is notified of the Airport’s recommendations. Staff believes that if time limitations are set for the Airport, they should also apply to every review agency. Mr. Thompson noted that the new development review process has been implemented and the Development Advisory Committee meets on a weekly basis to review new plans. Mr. Ditto, a member of the UGAAC, stated there is a 60 day time limit in the Animal Husbandry Ordinance for new animal husbandry applications to be reviewed and approved.

Mr. Goodrich stated that during the last Workshop meeting members asked Staff to contact the County Attorney’s Office to determine if current or future Airport funding would be in danger if the County did not adopt the proposed zoning changes. Mr. John Martirano, the County Attorney, pointed out in conversations with Mr. Goodrich the following excerpts from the Advisory Circular: “The FAA

recommends that public use airport operators implement the standards and practices contained in this AC” and “Airports that have received Federal grant-in-aid assistance **must** use these standards.” Mr. Goodrich noted that grant assurances are attached to the funds that are received and list all the guidelines that must be followed. Future grants will be linked to the requirements in the Circular. Mr. Martirano also pointed out the following criteria from the Advisory Circular that states, “Airports that have received Federal grant-in-aid assistance are required by their grant assurances to take appropriate actions to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. The FAA recommends that airport operators to the extent practicable oppose off-airport land use changes or practices within the separations identified in Section 1-2 through 1-4 that may attract hazardous wildlife.” Mr. Goodrich noted that during the last Workshop, Commission members discussed a three mile radius versus the recommended five mile radius. Staff believes that the three mile radius would be non-compliant with the FAA recommendations.

Mr. Ditto stated that the Advisory Circular is referenced in the County’s Zoning Ordinance. Therefore, he believes that it will become a legal document that must be complied with. He expressed his concern that this document will give the County the right to deny certain types of agricultural operations. In his final comment, Mr. Ditto asked the Planning Commission to remove the word “disapprove” from the proposed text relative to the Planning Commission’s approval or disapproval of a site plan or animal husbandry operation. He noted that in the Animal Husbandry section of the Ordinance there can be no disapproval if all perimeters, setbacks, etc. are met.

- **Consensus:** The Planning Commission recommends the language as proposed for the AP zone.

The Planning Commission began its review of Article 21A – ORT (Office, Research & Technology) zone. The ORT zone was recommended by the Comp Plan. It was drafted by attorneys for Allegheny Energy, adopted by the County, and applied to Allegheny Energy property to support their intention to develop a technology park. Staff is proposing a few minor modifications to the text. There was a brief discussion regarding government office buildings as a principal permitted use. The intent is not to distinguish between government office buildings and other office buildings, but rather to eliminate government **structures and facilities** such as sewage treatment plants, communication towers, etc. Mr. Goodrich stated that “structures and facilities” is a very broad term and could include things that are not appropriate uses in the ORT zone.

Mr. Kercheval made an inquiry regarding Section 21A.3(b), which lists permitted accessory uses provided that “no more than 5% of the total gross floor area of the building is occupied by such uses, and further provided that no single commercial use occupies more than 3,000 square feet of adjusted gross floor area”. Mr. Goodrich stated that these requirements would apply to a multi-use building where a portion of the first floor would house retail uses. Mr. Kercheval expressed his opinion that the 5% and 3,000 square foot limitations might need to be adjusted. Planning Commission members discussed this issue and asked Staff to check with other jurisdictions for feedback. Several alternatives were discussed including allowing the entire first floor for retail uses and eliminating the square footage limitation. There was discussion regarding limitations for one-story buildings. Staff will do some additional research to see if other jurisdictions have standards.

- **Consensus:** The Planning Commission recommends eliminating the percentage and square footage limitations and adding language to Section 21A.3(b) to indicate this applies to multi-story structures.

Mr. Kercheval asked why Section 21A.1(o) (satellite terminal stations and communications satellite systems) was eliminated from the text. Mr. Goodrich stated that is a recommendation of the UGAAC, which proposed that the uses in this section be added to the ORI zone. Mr. Ditto explained that when the UGAAC looked at the map and areas where ORT zoning might be appropriate, several areas were surrounded by dense population, dense development and businesses. The UGAAC believes that these areas were not appropriate for the ORT zoning and thus created the ORI zoning district. Mr. Goodrich stated that Staff recommended the ORT zoning for the former Allegheny Energy site and the UGAAC recommends the ORI zoning district for this same property.

Mr. Goodrich explained that a satellite facility that is only in the business of having satellites would not be permitted in the ORT zone. However, a permitted use that would need satellites as an accessory to its business would be permitted. There was a brief discussion citing various specific businesses that would be permitted in the ORT zone. Following discussions, Mr. Goodrich expressed his opinion that better clarification relative to permitted and accessory uses of satellite and communication satellite systems is needed. The Commission briefly reviewed the UGA map and proposed areas designated for the ORT zoning.

The Commission decided to review the ORI zone prior to making their recommendations for the ORT zoning district. Mr. Goodrich pointed out that the proposed ORI zoning district is a new district recommended by the UGAAC. He explained that the Committee believes there is too much difference between the ORI and the next industrial zone, which meant there was not enough control over uses. Mr. Goodrich noted that there have been discussions over the last several years relative to expanding the ORT zone to allow more industrial uses. Staff believes that by expanding the ORT to include more industrial uses it would delete the intent and ability to develop a technology park. The ORI zone allows more industrial uses; however, there are specific standards that must be followed relating to noise levels, air pollutants, etc. Mr. Bowen asked why standards are proposed for this zone and not the other industrial zones. Mr. Goodrich stated it is a way to allow a lot of different industries, but still keep the

zone “clean and light” and compatible with the high-tech industries that are allowed, such as medical research. He noted that the performance standards are very similar to Frederick County’s standards.

Mr. Kercheval questioned the proposed percentages (60% for manufacturing and 20% for warehousing) as presented in Sections 21B.1.A(10) and (11). Mr. Goodrich noted there are similar restrictions for manufacturing (40%) and warehousing (20%) in the ORT zone. The UGAAC recommended that the restrictions should apply in the ORI zone; however, they believe that the amount of space for these activities should be larger. Mr. Goodrich stated that the restrictions support the high-tech research aspect and restrict too many industrial uses. Mr. Kercheval expressed his opinion that the percentages should be higher in these high-tech areas. Mr. Thompson explained that a representative from the County’s EDC was present during the UGAAC discussions and had no objection to the percentages proposed.

Mr. Goodrich pointed out that the language with regard to the required performance standards, is the main difference between the ORI and the ORT zoning districts. Mr. Anikis expressed his concern with regard to the former Allegheny Power site. This site is currently zoned ORT; however, if the zoning is changed to ORI, Mr. Anikis believes this would have an impact on the nearby residential areas. He questioned buffering between the sites due to an increase in noise, lights, etc. on an industrial site. There would also be an increase in traffic, which could have an impact on Rench Road. Mr. Goodrich expressed his opinion that an ORT zone could produce the same amount of traffic. He pointed out that APFO requirements would need to be met, which would require a highway plan that would provide a road category that would be appropriate for the anticipated traffic issues. Mr. Thompson stated that the City and County, as well as the State, have been looking at transportation issues within the growth area to develop a plan to determine where roads are needed and where rights-of-way would need to be acquired. Mr. Anikis recommended that in Section 21B.9 (Design Standards) that the architectural treatment of buildings should be compatible with residential surroundings, as well as aesthetically pleasing from highways. There was a brief discussion regarding the proposed zoning on surrounding properties and buffer yard requirements.

Mr. Bowen stated that after reviewing the proposed ORI zone, he understands the difference between the ORT and ORI zoning districts. However, he believes clarification is needed regarding the use of satellite dishes. Mr. Bowen suggested that Section 21B.3(B) should be changed to reflect the changes recommended in the ORT zone. He questioned Section 21B.6 that states “No structure shall exceed 100 feet in height.....” Mr. Kercheval expressed his opinion that the height limitation is appropriate for the County. Mr. Reiber stated that he is not opposed to the 100-foot limitation and expressed his opinion that higher buildings create more safety concerns.

- **Consensus:** The Planning Commission recommends no changes to the ORI zoning district with the exception of the architectural treatment of buildings as noted above.
- **Consensus:** The Planning Commission recommends no other changes to the ORT zoning district with the exception of the percentage and square foot limitations as noted above.

The Commission began its review of the ERT zoning district, which was created in a cooperative effort between Staff and officials of the Hagerstown Community College (HCC). Mr. Goodrich stated that HCC representatives approached Staff prior to the rezoning of the UGA. HCC representatives stated that the role of the College is changing and requested zoning which would promote and allow for changes in the future. The proposed zoning allows the College’s main purpose as a higher educational institution, but it also allows the College to be flexible and allow more services to be provided to the community, such as business incubation and business acceleration. Mr. Goodrich noted that as long as there is a link between the College and the business, the business is permitted to stay on the College campus. However, once the link has been broken the business should relocate. Mr. Wiley believes there are several businesses still operating on the campus without the link to the College. There was a brief discussion regarding this issue. Members expressed their concerns that the link between the College and businesses are not being enforced and are unfair to other businesses in the community. Mr. Thompson explained that when the College purchases additional land, a rezoning for the new property will be required to have it zoned ERT.

Mr. Anikis began a discussion regarding Section 21C.10 regarding site plans. He asked if a master development plan has been prepared. Mr. Thompson stated that the College is working on a plan currently. Mr. Goodrich pointed out that there are strict design guidelines in the ERT zone designed to give the College flexibility on its campus but to provide protection for properties around the perimeter, which are mostly residential at this time. He noted that there are height limitation areas, which he briefly explained to the Commission. Mr. Goodrich gave a brief overview of other limitations within the ERT zone.

Mr. Wiley recommended that language should be added to the purpose section of the ERT zone stating that there will always be a significant link between the College and the business development and research technology. He stated that he “does not want a flimsy link” that may be allowing the businesses to stay when there is not an educational link to the College. Mr. Anikis expressed his opinion that there should be a time limitation for the length of tenure for a business to be on the campus. Mr. Kercheval expressed his opinion that the issue should not be addressed through the Zoning Ordinance. He also questioned Staff to explain why an ERT zone is needed. Mr. Goodrich stated the request for an ERT zone came from the College and Staff was directed to work with the College to create the zone. Mr. Bowen expressed his opinion that from a land value standpoint, the College property will have little or no value in the future if it is zoned ERT. Mr. Goodrich stated that if the property is zoned for uses that would

allow research and technology development, there is a concern for the residential uses located adjacent to the College property. The link to the College would mitigate the uses and keep the intensity of the industrial uses to a minimum. Mr. Goodrich noted that it is not the intent of Staff to promote industry on the campus. Ms. Irvin-Craig, a member of the UGAAC, stated that it should be incumbent on the College to develop a policy to ensure there is the educational link to the businesses.

Mr. Goodrich read a passage of the proposed text from Article 21C that states, "the zone is intended and designed to allow and promote nontraditional business uses that have a necessary link to the primary educational institution's education function and not as a mechanism for the institution to develop or sell properties for business uses not related to its educational function."

Mr. Wiley expressed his opinion that he is not opposed to a zoning district for the College. He believes that there will be significant changes to education in the future and having a zoning classification designated for the college will make the changes easier to deal with. Mr. Reiber does not believe that the Planning Commission's should try to regulate the College through zoning.

- The Planning Commission recommends that Article 21C, Section 21C.0, paragraph 4 should read as follows: "The zone is intended and designed to allow and promote nontraditional business uses that have a **significant** link to the primary educational institution's education function and not as a mechanism for the institution to develop or sell properties for business uses not related to its educational function. It is ~~intended~~ **required** that there will always be a **significant** link between the business development, research, technology and economic development activities and the educational function of the college or university.

VOTE: Mr. Bowen, Mr. Wiley and Mr. Ecker voted in favor of adding the word **significant** [as indicated above]. Mr. Reiber voted no. Mr. Anikis and Mr. Kercheval abstained.

- **Consensus:** The Planning Commission recommends the proposed text and adoption of the ERT zoning district with the exception of the change noted above.

Mr. Goodrich began the review of Article 22 (Off-Street Parking & Loading) by stating that the BOCC recently adopted changes to this article of the Zoning Ordinance. The Planning Commission also reviewed the changes and made their recommendations during a public meeting. Article 22 (Signs) was recently changed to address issues regarding outdoor advertising signs; therefore, Staff believes no other major changes are needed at this time.

Public Comment: Mr. Gerald Ditto commended the Planning Commission members on their attention to detail on many of the issues they have previously discussed. However, he is disappointed that the Commission has not addressed issues concerning agriculture and the unintended consequences as much as other businesses that the Commission has addressed.

Mr. Reiber began a discussion regarding the Airport property and asked if there are issues that the Commission is not aware of at the Airport. Mr. Goodrich commented that the Advisory Circular recommends analyzing the environment around the Airport and identifying existing problems with hazardous wildlife and creating a process to eliminate those problems. Staff believes that the analysis should be done now to identify the problems and should be done separately from zoning. Mr. Thompson noted that a hazardous wildlife study was done in 2003. Mr. Ditto questioned how the proposed changes to the Airport zone will solve the existing problems. Mr. Goodrich stated it will not solve the existing problems; however, it will provide the County with a mechanism to identify problems in the future. Mr. Anikis expressed his opinion that nothing is being done to solve the current issues. Mr. Bowen pointed out that the Advisory Circular and the proposed text are only asking for recommendations from the Airport Director and is not giving ultimate authority. Mr. Ditto reiterated his concerns that: the Advisory Circular states that the County "must comply" and the Planning Commission is being given the authority to "disapprove new animal husbandry operations", which is not part of the current Animal Husbandry section of the Ordinance. He believes that the word "disapprove" should be deleted from the proposed text. Mr. Ditto finalized his comments by stating that the Advisory Circular requires that operations shall have a wildlife plan; however, the County does not have written standards for applicants to follow.

NEXT MEETING

The Planning Commission has scheduled its next Workshop on January 25, 2010 at 3:00 p.m. at the Administrative Annex.

ADJOURNMENT

Mr. Anikis adjourned the meeting at 5:50 p.m.

Respectfully submitted,

George Anikis, Chairman