

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING – February 1, 2010**

The Washington County Planning Commission held its regular meeting on Monday, February 1, 2010, in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown.

Members present were: Chairman George Anikis, Linda Parrish, Drew Bowen, 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 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

Ms. Parrish made a motion to approve the minutes of the December 7, 2009 regular meeting as presented. Seconded by Mr. Bowen. Unanimously approved.

Ms. Parrish made a motion to approve the minutes of the January 11, 2010 workshop meeting as presented. Seconded by Mr. Reiber. Unanimously approved.

NEW BUSINESS

- MODIFICATION

Robert J. Hill, Quail Run PUD Lot 16 (SV-09-018)

Ms. Kelly presented for review and approval a setback modification for property located on the east side of Grouse Lane North, Lot 16 in the Quail Ridge Subdivision. Quail Ridge was approved in the late 1980's as a Planned Unit Development (PUD). The owner, Mr. Robert Hill, placed a 288-square foot shed four feet from the rear property line without a building permit. The minimum setback requirement is ten feet from the rear property; therefore, the owner is requesting the modification. The Washington County Division of Public Works Land Development Engineering has reviewed the request and submitted the following comment: "We will approve this request with the condition that the property owner is made aware that there is also a 8.0' drainage and utility easement along the rear of ALL lots in this development. Should the County need to utilize this easement for any of the intended purposes, it will be the property owners full responsibility to remove and replace any structure placed in this easement at their expense."

Discussion and Comments: Mr. Reiber asked if the drainage and utility easements are noted in the individual deeds. Ms. Kelly stated the easements are noted on the final plat. Ms. Parrish asked if the neighbors object to the placement of the shed and the modification request and asked if they were notified. Ms. Kelly stated that the neighbors were not notified and staff did not contact any of them. Mr. Wiley asked why the request was not submitted to the Board of Zoning Appeals. Ms. Kelly stated that any modifications in a PUD must be approved by the Planning Commission. Mr. Kercheval explained that a building permit is not required for structures under 200 square feet and during the building permit process, building setbacks are checked. Mr. Kercheval is not opposed to the modification; however, he believes that the property owner should acknowledge, in writing, that if the County needs to access the easement, he is responsible for the removal and replacement of any structures placed in the easement area at his own expense. The letter should also include that the structure will be removed in a timely manner for the County's access. Mr. Bowen asked if a building permit can be required and fees collected now. Mr. Kercheval stated that generally the Department of Permits and Inspections will require that a building permit be obtained and fees paid. However, he does not know the process that has been followed for this particular case. Mr. Thompson stated that structures constructed without a building permit will have an investigation fee attached. Mr. Anikis requested that staff follow-up with the Permits and Inspections Department to determine if fees were paid and how this particular case was handled.

Motion and Vote: Ms. Parrish made a motion to approve the modification request contingent upon receipt of a letter from the property owner, Mr. Hill, acknowledging his responsibility to remove the shed at his own expense and in a timely manner at such time the County needs access to the easement and pending application for a building permit.

Mr. Reiber requested that the motion be amended that staff notify the property owner of the approval contingency. Ms. Parrish amended the motion. Seconded by Mr. Reiber. Unanimously approved.

Thomas S. Michael (SV-10-003)

Ms. Wagner-Grillo presented for review and approval a modification request from Mr. Thomas Michael. On July 15, 2003, Lot 2, which is 11.48 acres, was approved as a lot without public road frontage and the stipulation that the property not be transferred out of the family for 10 years without the approval of the Planning Commission. The property is located along the north side of Falling Waters Road off of Beagle Club Lane. The applicant is seeking permission to terminate the 10-year family member agreement due to financial hardship. The current 10-year agreement does not expire until 2013.

Discussion and Comments: Mr. Kercheval asked how the property is currently accessed. Mr. Ed Schreiber of Frederick, Seibert & Associates, the consultant, stated there are two accesses to the property, one off of Falling Waters Road. Mr. Kercheval asked if there is a shared use agreement. Mr. Schreiber stated there is an existing right-of-way that establishes the ingress and egress easement; however, it does not mention joint use of the property in the deed. A legal description for the lane is not in the deed, but the subdivision plat that the right-of-way is shown on is mentioned. Mr. Kercheval asked if a family member still owns the lane. Mr. Schreiber stated that the property has been sold. Mr. Reiber expressed his opinion that a legal description should be provided in the deed. Mr. Kercheval asked that staff briefly review the deed to make sure that the purchaser has legal access to the drive. Mr. Lung stated that the County Attorney's Office could review the deed to make sure that the current language guarantees the purchaser access.

Motion and Vote: Ms. Parrish made a motion to approve the modification request contingent upon a review by the County Attorney's Office to guarantee that the current document for the shared access is legally binding. Seconded by Mr. Kercheval. Unanimously approved.

- PRELIMINARY CONSULTATIONS

Tencay (PC-09-003)

Ms. Wagner-Grillo presented for review and comment the preliminary consultation for Tencay. The property is located along Leitersburg Pike south of Longmeadow Road. The developer is proposing five commercial lots for medical offices on 18.79-acres currently zoned RS – Residential Suburban. Under the current zoning, medical offices are not a permitted use; however, the developer is planning to apply for a Special Exception request through the Board of Zoning Appeals. Lot 1 is proposed as a dental office for Dr. Kramer, the contract purchaser. There are currently no plans for the remaining lands. Ms. Wagner-Grillo gave a brief summary of the comments received from the reviewing agencies. The Washington County Land Development Engineering office has requested that a traffic impact study coordinated with the Maryland State Highway Administration and County Engineering Department be completed. A State Highway Hydraulic Review will be required due to discharge into the future right-of-way. Accel/decel and by-pass lanes will be required. A second access will be required if the development generates over 25 peak hour trips. The proposed roadway must be extended to the interim parcel line with a temporary T-turnaround. Commercial access through Rose Hill Manor will not be permitted. The access road through Lot 1 will be required to be extended into and provided for Lot 2 as part of the approval of Lot 1. The Maryland State Highway Administration will require a traffic study, sight distance evaluation and profile. The SHA is concerned about the lack of adequate sight distance in both directions along MD Route 60. The Washington County Department of Environmental Management will require the development to connect to the existing water and sewer lines. The proposed sewer is associated with Rose Hill Manor and will be extended to the proposed development. The City of Hagerstown Water and Sewer Department will require a pre-annexation agreement to be signed to gain approval for water service. The Washington County Planning Department recommended that the applicant consider the rezoning process in lieu of the Special Exception request. Forty (40) parking spaces will be required for the medical use. Lot 2 does not have public road frontage and a panhandle will be required for access. Forest Conservation requirements will be met utilizing the remaining lands for forest easements. As currently designed, the remaining lands will be landlocked and the Subdivision Ordinance requires fee simple road frontage; therefore, Staff recommended the use of a cul-de-sac for access to the remaining lands. Staff also recommended no direct access to the lots from Maryland Route 60.

Discussion and Comments: Mr. Bowen asked for the status of the Special Exception request. Mr. Mike Battern of Fox & Associates, Inc., the consultant, stated that the request has not been filed to date. There was a brief discussion regarding the proposed rezoning of this property as part of the current comprehensive UGA rezoning. Mr. Lung stated that during the preliminary consultation, staff suggested that the developer request a commercial zoning for the property as part of the comprehensive UGA rezoning process. Ms. Parrish expressed her concern regarding the proposed entrance on MD Route 60 and future residential development. Mr. Battern stated that the residential traffic must be separated from the commercial traffic per comments from the County Engineering Department and that a turnaround must be provided. The remaining lands, if the zoning remains RS, would be connected to Rose Hill Manor. Mr. Kercheval expressed his opinion that the Forest Conservation Plan as proposed is appropriate for buffering from the residential development on adjacent property. He questioned Staff's comments regarding storm water management and forest retention. Mr. Battern stated that a drainage easement must be provided along the adjacent property for the future Rose Hill Manor development per the County Engineering Department. He noted that the forest easement cannot be located within the drainage easement. There was a brief discussion regarding the rezoning of the property and the Special Exception request.

- SUBDIVISIONS

Black Rock PUD, Phase IA (PP-09-002)

Ms. Wagner-Grillo presented for review and approval the preliminary plat for Black Rock PUD, Phase IA located along the north side of Mt. Aetna Road. The developer is proposing a total of 585 units on 220.11 gross acres currently zoned A(PUD) – Agriculture Planned Unit Development. Phase IA consists of 127 lots, Phase IB consists of 35 lots, Phase II consists of 220 lots and Phase III consists of 203 lots. Phase IA consists of 127 lots on 101.67 acres. In March of 2009, an extension was requested for the proposed community center site plan. The site plan has been redesigned due to a future collector road as requested by the County Public Works Department. The extension was granted and the phasing schedule was approved. An extension for the Black Rock Community Center is being requested again. Phase IA will have 28.08 acres of open space and Forest Conservation requirements will be met through retention and plantings throughout the development. Forest Conservation requirements for Phase IA are 23.79 acres. The

Preliminary Forest Conservation Plan has been deferred until the final plat. Public water and sewer services will be provided by the City of Hagerstown. Fire services will be provided by the Mt. Aetna Fire Department and ambulance services will be provided by the Community Rescue Service. Storm water management requirements will be met through several storm water management ponds throughout the development. Asphalt walkways are proposed around the open space areas and will connect to the proposed community center. Sidewalks are also proposed. The County Land Engineering Department has limited building permits to 58 before improvements will be required to Mt. Aetna Road. After the road improvements are completed, Phase I will be allowed to continue as well as subsequent phases. Approvals are pending from the City of Hagerstown Sewer Department, Washington County Health Department and Washington County Soil Conservation District.

Discussion and Comments: Ms. Parrish made an inquiry regarding sidewalks in the proposed development. Mr. Sassan Shaool, developer, stated that sidewalks and walkways would be used throughout the development. There was a brief discussion regarding drainage on the site. Mr. Anikis asked about the historic structure located on Lot 27, which is proposed for retention. Mr. Shaool stated that the structure has been vandalized and burnt, but the structure will remain on a separate lot. Mr. Anikis made an inquiry regarding the relocation of the historic structure on Lot 25. Mr. Gordon Poffenberger of Fox & Associates, Inc., the consultant, stated that the structure will be relocated on the same lot outside of the drainage easement area.

Motion and Vote: Mr. Bowen made a motion to approve the preliminary plat for Phase IA as presented contingent upon all agency approvals and to grant an extension to the site plan for the proposed community center. Seconded by Mr. Reiber. Unanimously approved.

Barr Family LLC (S-09-062)

Mr. Shaw presented for review and approval a waiver from the 50-foot agricultural land use setback for a dwelling. The property is located along the northeast side of Fairview Road in Clear Spring (Tax Map 8, Grid 24, Parcel 134). The lot is 2.71-acres and is zoned A(R) – Agricultural Rural. In accordance with Section 5A.5 of the Zoning Ordinance, the Planning Commission may increase the minimum setbacks up to 50 feet for properties adjacent to parcels that are actively farmed or parcels with an agricultural district designation. Staff has requested that any subdivision parcel next to a property with an agricultural use tax assessment to provide the 50-foot setback with the option to request a waiver from the Planning Commission. The proposed dwelling meets the minimum setbacks for the A(R) zone, which is 40-foot front yard, 15-foot side yard and 50-foot rear yard. The consultant provided a letter for the waiver request citing several factors to be considered in the Planning Commission's decision. Staff has no objection to reducing the agricultural setback from 50-feet to 15-feet for the proposed development.

Discussion and Comments: Mr. Reiber asked why the 15-foot setback was not considered when the development was originally platted. Mr. Lung stated that the lot was approved as a "not for development" parcel.

Motion and Vote: Mr. Bowen made a motion to approve the waiver as presented. Seconded by Mr. Wiley. The motion passed on a 3-1-0 vote with Mr. Bowen, Mr. Wiley, and Ms. Parrish voting "aye", Mr. Reiber voting "no" and Mr. Kercheval abstained.

- SITE PLANS

Hagerstown Community College (SP-09-052)

Ms. Kelly presented for review and approval a site plan for the proposed science and mathematics building at the Hagerstown Community College. The property is currently zoned RS – Residential Suburban. The proposed building will be 5 stories totaling 61,635 square feet of space. The existing science building will become a learning center. Public water and sewer will serve the site. The hours of operation will be 7:00 a.m. to 9:00 p.m., Monday through Friday and Saturday 7:00 a.m. to 4:00 p.m. Lighting will be building mounted with pole lights surrounding the existing parking lot. Current parking spaces required are 1,437 spaces and the current parking provided is 1,603 spaces. A new wall mounted sign will be installed on the building. Concrete sidewalks and handicapped ramps will be installed from the parking lot to the proposed building and to the current walking area that serves the current classroom and science buildings. Storm water management requirements will be met by bio-retention ponds. The front of the building will have a stone plaza made of stone pavers and will include statues, sculptures, a fountain, benches, café table and chairs, bicycle rack, and planters. Evergreen and shade trees will be planted around the building along with ornamental grasses and perennials around the plaza and in the bio-retention ponds. Final approvals are pending from the County Land Development Engineering Department, Address, the City of Hagerstown Sewer Department, Washington County Soil Conservation District and the Washington County Health Department. A Forest Conservation Plan will be submitted at a later date; however, existing forest is proposed for retention on the existing acreage of HCC.

Discussion and comments: Mr. Reiber made an inquiry regarding the proposed master plan for HCC and the proposed expansion of the college with regard to traffic and safety issues. Mr. Thompson stated that the College is currently working on a master plan. He noted that currently there is a parking lot and an expansion to Kepler Theater proposed. Dr. Robert Spong, an HCC representative, made a brief presentation using a rendition of the campus development plan showing future building sites, proposed buildings, and proposed entrances. This plan encompasses a 20 to 30 year time period. There was a brief discussion regarding future access points, sewer and water allocation, and solar powered energy for the college.

Motion and Vote: Mr. Reiber made a motion to approve the site plan contingent upon all agency approvals. Seconded by Mr. Kercheval. Unanimously approved.

D & G LLC (SP-09-049)

Ms. Wagner-Grillo presented for review and approval a site plan for D & G LLC located along the south side of Mt. Aetna Road. The property is 2.09-acres in size and is currently zoned BG – Business General. There is an existing 900-square foot contractor's office building on the site. The owner is proposing a 1,400 square foot addition to the existing office. Hours of operation are Monday through Friday, 9:00 a.m. to 7:00 p.m. There are currently two employees. No new signage or lighting is proposed. The site will be exempt from Forest Conservation requirements. All agency approvals have been received. Staff has requested additional screening through landscaping to be provided from the new addition to the adjacent property due to the size of the addition. The applicant is requesting a waiver from the additional landscaping request.

Discussion and Comments: Mr. Reiber asked why the applicant does not want to provide the additional landscaping requested by Staff. Mr. Ed Schreiber of Frederick, Seibert & Associates, the consultant, stated that the applicant does not believe the additional landscaping is needed. There is a warehouse located north of the applicant's property. Several members expressed their opinions that the additional landscaping is not needed.

Motion and Vote: Mr. Bowen made a motion to approve the site plan without additional landscaping requirements. Seconded by Mr. Kercheval. The motion passed with Mr. Bowen, Mr. Kercheval, Mr. Wiley and Ms. Parrish voting "Aye" and Mr. Reiber abstained.

Dual Crossing (SP-09-032)

Ms. Wagner-Grillo presented for review and approval a site plan for Dual Crossing located at the intersection of Mt. Aetna Road and Dual Highway. The site is 1.5-acres in size and is currently zoned BL – Business Local. The owner is proposing to construct a three story 23,556-square foot building that is 50-feet in height. Centra Bank will occupy the first floor, which is 5,132-square feet, with four drive-through lanes. The second and third floors will be business offices, which will be 8,612 square feet in size. Eight employees are proposed for the bank and 40 employees are proposed for the offices. The hours of operation for the bank will be 8:00 a.m. to 8:00 p.m., Monday through Friday and 8:00 a.m. to 3:00 p.m. on Saturday. The hours of operation for the proposed offices will be 8:00 a.m. to 5:00 p.m. Monday through Friday. Parking spaces required are 63 spaces and 80 parking spaces will be provided. Deliveries will be daily box trucks. The proposed sign will be 8 feet by 24 feet. Lighting will be building mounted. A photometric plan has been provided which showed no light trespass on adjacent residential properties or roads. Storm water management will be provided through on-site mechanisms. Public water and sewer will be provided by the City of Hagerstown. Fire service will be provided by the Funkstown Fire Department and ambulance service will be provided by the Community Rescue Service. Trash will be collected inside the building and picked up by a private trash hauler. No outside refuse service is proposed outside the building, which is noted on the site plan. Forest Conservation requirements will be met using the express procedure with a payment-in-lieu amount of \$1,000.00. Landscaping will be provided throughout the parking area and around the building. A double row of Red Cedar Green Giants planted along the western property line to buffer the existing residential uses is proposed. In July of 2009, the Planning Commission reviewed a site plan for a different use on this site and requested a 25-foot buffer from the residential property. In August of 2009, the current owner requested a reduction in the landscaping buffer because the proposed use is less intense. The Planning Commission granted the request contingent upon the neighbors agreeing to the proposed landscaping or a vinyl fence. A letter was received from the residential property owners dated July 17, 2009 stating that they would prefer the landscaping rather than the vinyl fence. Ms. Wagner-Grillo explained there were changes in the access to the property. Previously there was a restricted left hand turn onto Mt. Aetna Road; however, a right and left hand turn will be allowed onto Mt. Aetna Road with the stipulation, as requested by the County Engineering Department, that a condition be put on entrance permits for Mt. Aetna Road that a traffic study will be submitted that assesses the function of the Mt. Aetna Road entrance after 18 to 24 months in operation. If there are problems resulting from the left-hand turn, the developer will be required to modify the entrance and restrict the movement. The State Highway Administration access permit stipulates that if any commercial construction is performed on the adjacent property that is currently zoned residential the second entrance will need to be eliminated and an access easement must be obtained over the now residential property. Originally, the Sheriff's Department requested no left-hand turn from the site due to accidents, back-ups and the increased traffic anticipated with the new hospital and primary school. A concrete median is proposed that would prohibit left-hand turns onto Beverly Road. State Highway Administration and County Engineering Department approvals are pending.

Discussion and Comments: Mr. Reiber expressed his concern regarding the left-hand turn especially when the new hospital and new primary school opens. There was a brief discussion regarding the left-hand turn and decisions that led to the change from the original proposal.

Motion and Vote: Mr. Reiber made a motion to approve the site plan contingent upon all agency approvals and the traffic study to be completed after the building has been in operation for 18 to 24 months. Seconded by Mr. Wiley. Unanimously approved.

Misty Meadow Farms, Inc. (SP-09-058)

Ms. Wagner-Grillo presented for review and approval the site plan for Misty Meadow Farms located on the east side of Misty Meadow Road. The property is 31.2 acres in size and is currently zoned A(R) –

Agricultural Rural. The existing farm is currently in a Maryland Land Agricultural Foundation Program (MALPF) easement. The owner is proposing a 3,150-square foot creamery with a drive-thru. Hours of operation are 10:00 a.m. to 9:00 p.m. Monday through Friday and 11:00 a.m. to 7:00 p.m. Saturday and Sunday. Two employees are proposed. Two parking spaces are required and five parking spaces will be provided. The MALPF regulations require pervious surfaces for parking areas; therefore, pervious pavers are proposed for one handicapped parking space and one regular parking space. Additional parking spaces will be gravel. One building mounted sign is proposed, which is 32-square feet in size. Lighting will be building mounted. UPS delivery is anticipated. The site will be served by individual well and septic. Storm water management will be provided by an on-site mechanism. The site is exempt from Forest Conservation requirements. All agency approvals have been received.

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

Mountainside Teleport (SP-09-042)

Mr. Lung presented for review and approval a site plan for Mountainside Teleport located along the south side of Technology Boulevard in the Friendship Technology Park. The site contains 65 acres and is currently zoned ORT – Office, Research and Technology. The developer is proposing a 20,000 square foot addition to the existing data center, 79 new satellite dish pads and 18 equipment shelter buildings of various sizes. Nine new employees are proposed with the expansion. The new antennas on the satellites will range in height from 15-feet to 70-feet. The parking lot and access road associated with the data center will be reconfigured due to future proposed expansions of the data center. Several new storm water management facilities will be constructed to accommodate the addition. Additional gravel maintenance roads are proposed to access the dish sites. The existing data center is served by public water and sewer from the City of Hagerstown. The site is exempt from Forest Conservation requirements because the Zoning Ordinance exempts land that was previously zoned Planned Industrial. All agency approvals have not been received.

Motion and Vote: Mr. Reiber made a motion to approve the site plan contingent upon all agency approvals. Seconded by Mr. Kercheval. Unanimously approved.

- OTHER BUSINESS

Rosewood PUD Development Plan Revision

Mr. Lung began by explaining that a PUD (Planned Unit Development) is an overlay zone which requires a public hearing as part of the rezoning process. The Zoning Ordinance allows modifications to the design standards in a PUD; however, the Planning Commission must determine if the changes warrant another public hearing. Mr. Lung noted that commercial uses in a PUD are restricted to 10% of the gross tract area.

Mr. Lung stated that a PUD overlay zone was obtained for this property in 1995 and the Final Development Plan was approved in 1999. Phase I has been completed as well as several portions of Phase II. Plans for Phase III are currently under review by the various reviewing agencies.

The developer is proposing to eliminate four 12-unit apartment buildings in Phase II-B and construct a 14,000 square foot with 4,000 square feet of mezzanine office building. The proposed commercial area would increase the percentage of commercial area in the PUD from approximately 10% to 12% of the gross tract area.

Discussion and Comments: Mr. Sassan Shaool, developer, stated that the surrounding neighborhood has changed significantly over time and he believes that the proposed office building would be a more appropriate use. He noted that no residential development has occurred adjacent to the site so future buyers would be aware of the commercial development prior to buying or renting property in the area.

Members discussed the need for a public hearing for the change in use. Issues discussed included the increase in the percentage of commercial area from 10% to 12%, the fact that there is no residential development currently adjacent to the site, and the changes in the surrounding neighborhood since the development plan was approved in 1999. Following these discussions, Mr. Wiley, Mr. Bowen, Mr. Reiber and Ms. Parrish expressed their opinions that a public hearing is not needed because there is not a substantial change in the percentage of commercial area. Mr. Kercheval expressed his opinion that generally a change in use would require a public hearing; however, because there is no developed land surrounding the site, he believes a public hearing is not needed for this change. Mr. Anikis questioned the need for another traffic study. Mr. Lung stated that a revised development plan is required and will be routed to all approving agencies for their review and approval. Mr. Anikis expressed his opinion that a public hearing should be held to inform other commercial developers of Mr. Shaool's intentions.

Motion and Vote: Mr. Bowen made a motion to allow the developer to proceed without a public hearing because the land surrounding the proposed commercial site is undeveloped at this time. Seconded by Ms. Parrish. Unanimously approved.

Comments after the vote: Mr. Kercheval suggested that a traffic study would be beneficial in determining turning movements and alignment at the intersection in the future.

FUTURE MEETINGS

Workshop meetings have been scheduled on Monday, February 15th and Monday, February 22nd at 3:00 p.m. at the Washington County Administrative Annex.

ADJOURNMENT

Mr. Bowen made a motion to adjourn the meeting at 9:00 p.m. Seconded by Ms. Parrish. So ordered.

Respectfully submitted,

George Anikis, Chairman