

**WASHINGTON COUNTY PLANNING COMMISSION
REZONING PUBLIC MEETING
March 16, 2009**

The Washington County Planning Commission held a rezoning public meeting on Monday, March 16, 2009 at 7:00 p.m. at the Washington County Court House, Court Room #1, 95 West Washington Street, Hagerstown.

Members present were: Chairman, George Anikis, Clint Wiley, Andrew Bowen, Terry Reiber, Sam Ecker, Linda Parrish and Ex-officio James F. Kercheval. Staff members present were: Planning Director Michael Thompson, Chief Planner Tim Lung, Senior Planner Jill Baker and Administrative Assistant Debra Eckard. Also present was John Gudmundson of the County's Information Technologies Department.

CALL TO ORDER

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

NEW BUSINESS

- RZ-09-001 – Zoning Ordinance Text Amendment

Ms. Baker presented a proposed Text Amendment to the County's Zoning Ordinance, Article 3; Article 4, Sections 4.5, 4.10, 4.18 and 4.22; Articles 5A, 5B, 5C and 5D; and Article 28A. Ms. Baker explained the proposed changes to the text. She noted that these amendments are necessary to clarify existing language in the Zoning Ordinance.

Discussion and Comments: Mr. Reiber made an inquiry regarding the origin of the definitions proposed for measurements. Ms. Baker stated the definitions are derived from current national standards as set forth by the NPA (National Parking Association). Mr. Reiber made an inquiry regarding cemeteries as a permitted use with churches and funeral establishments. Ms. Baker stated that a cemetery would be considered as an accessory use when used in conjunction with a church or funeral establishment in some zoning districts.

Mr. Bowen questioned when the new regulations would become effective, if adopted by the Board of County Commissioners, and how it would affect plans currently being reviewed. Ms. Baker stated that the new regulations would go into effect the day the BOCC adopts them, unless the BOCC assigns a specific effective date. Plans currently being reviewed would be "grandfathered", as well as all plans previously approved. The new regulations would be required to be met if any changes are proposed at a later date that would change the use or the intensity of the site. Mr. Thompson stated that a zoning text amendment typically takes effect ten (10) days after the adopted date, unless a specific effective date is adopted by the BOCC.

Mr. Wiley made an inquiry regarding Section 4.22 (Commercial Communication Towers) and questioned if the same language is used by other jurisdictions. Ms. Baker stated that the County's Emergency Services Department requested the language as it pertains to the reservation of space on a tower for use by the County. Mr. Kercheval stated that the County has been requesting space on communication towers for approximately two years. The County is encouraging multiple users on cell towers in order to limit the number of towers being erected.

Mr. Kercheval made an inquiry regarding the change of a guest house in an accessory building as a special exception in the RB (Rural Business) district to a non-permitted use. Ms. Baker stated the change was made because special exception uses are not allowed in the RB zone. She also noted that the RB zone is intended to be a business district and not a residential district. Ms. Baker stated that the Ordinance was being misinterpreted as currently written. She explained that a dwelling unit in conjunction with a principal non-residential use is permitted; however, a second dwelling is not permitted. Further clarification was discussed.

Mr. Ecker asked for clarification between "home occupation" and "home residential business". Ms. Baker explained that a "home occupation is conducted solely by the member or members of a family residing therein and the use is incidental or subordinate to the main use of the building or dwelling". A "home residential business" is a special exception use and would require an application to be heard before the Board of Zoning Appeals. Ms. Baker explained that a "home residential business is conducted by a family or members of a family residing therein and not more than two non-resident employees". Other criteria is also considered for a "home residential business" such as square footage and the amount of traffic generated.

Public Comment: Mr. Jeremy Holder, a resident of Sharpsburg and representing Westfields Investment, LLC, briefly spoke to the Planning Commission with regard to Article 4, Section 4.22 of the Zoning Ordinance. He encouraged the County to include language to require the installer/operator to demolish cell tower structures when they are abandoned. Mr. Holder also addressed the Commission with regard to Article 28A and the definition of "building height". He expressed his opinion that Staff's proposed text does not clearly define the measurements of cross-slopes along building frontage and from front to rear.

Conclusion: The Planning Commission requested that Staff include language in the proposed text amendment to require the removal of cell towers by the installer/operator after it is abandoned.

RZ-09-003 - Zoning Ordinance Text Amendment

Ms. Baker presented a proposed Text Amendment to Articles 22 and 28A of the County's Zoning Ordinance. Staff is proposing to repeal the current off-street parking regulations outlined in Article 22, Division 1 and replace the section with new text being proposed. Also proposed are changes to the definitions outlined in Article 28A to support the amendments being requested in Article 22. Ms. Baker noted that the current regulations were established as part of the original Zoning Ordinance adopted in 1973. Some minor amendments to this section of the Ordinance have been adopted, but a detailed review and analysis has not been completed. The Planning Department has been working in cooperation with the Permits and Inspections Department and the Land Development Engineering Department to update the current standards. Ms. Baker briefly summarized all of the proposed changes for the Commission.

Discussion and Comments: Ms. Parrish questioned the proposed maximum parking requirements. Ms. Baker stated that retail shopping centers tend to go beyond minimum parking requirements, which contributes to the urban heat affect, adds to impervious run-off issues, etc. If additional parking is needed, the developer can add 25% more parking spaces. The expansion of parking above and beyond the additional 25% must be met using a pervious surface pavement approved by the County's Land Development Engineering Department. Ms. Parrish expressed her opinion that the County is "putting in guidelines for something that is a rare occurrence.

Mr. Wiley expressed his opinion that the requirement would be burdensome to developers and could deter businesses from locating in Washington County.

There was a discussion regarding parking issues during the Christmas season at the Prime Outlets. Members discussed the higher cost of pervious parking lots and the lack of contractors in the immediate area that use the required materials. Ms. Baker pointed out that the standards are based on an average daily use. Most standards are based on an estimated 80% maximum yield.

Ms. Parrish expressed her opinion that bicycle parking should be optional and should not be a requirement for new businesses or the expansion of parking lots. Ms. Baker stated that the bicycle parking requirement is mandated by the State of Maryland (Article 66B). She stated that the proposed language mirrors Allegany County's ordinance. Bicycle parking is required on parking facilities that contain 50 parking spaces or more.

Mr. Wiley expressed his opinion that pedestrian access should also be required. Ms. Baker noted that pedestrian access is addressed within this text amendment.

Ms. Parrish expressed her opinion that businesses should be permitted to use their parking facilities for non-parking uses and she believes that the County is "over-regulating".

Mr. Kercheval expressed his concern regarding the regulation of parking facilities for non-parking uses. He stated that he understands that if a business has only the minimum required spaces and they set up an outside sales area that causes parking issues off-site. However, if there are significant parking facilities over the required minimum, he does not believe there should be a concern. Ms. Parrish and Mr. Anikis agreed with Mr. Kercheval's comments. Mr. Thompson explained that if minimum parking requirements can be met with the outside sales area there is not an issue. Currently, there is no language in the Zoning Ordinance to regulate this type of use.

Ms. Parrish questioned the proposed parking aisle width versus the current aisle width. Ms. Baker explained that the aisle width depends upon the angle of the parking spaces. She reviewed the current requirements. Ms. Baker noted that the proposed language would clarify if the aisle is to accommodate one-way or two-way traffic.

Mr. Kercheval asked if there are any requirements proposed for truck terminals. Ms. Baker stated that currently one parking space per main shift employee is required. She noted that proposed text states, "parking shall be determined based on a detailed parking analysis and study that shall address number of employees, projected daily use patterns based on terminals of similar size in the area/region, and accommodations offered (fueling stations, showers, overnight parking, food services, etc.). The final determination of adequacy shall be made by the Planning Commission. There was a brief discussion regarding parking spaces for retail services. Ms. Baker noted that Staff is proposing to reduce the number of parking spaces required based upon the square footage of the retail establishment. She stated that the current Ordinance requirements are based on gross leasable area and the proposed amendments are based on gross floor area. Mr. Kercheval compared Washington County requirements with other jurisdictions using a table that Staff provided in the Agenda materials. Mr. Kercheval expressed his concern regarding the proposed width of streets in developments.

Mr. Bowen reiterated the concerns of other Commission members that the proposed parking requirements are too burdensome for developers. He stated he supports the proposed lighting requirements and the maximum number of space required. Mr. Bowen questioned the County's regulation and enforcement of recreational vehicles on private streets and the maintenance of landscaping materials.

Mr. Wiley reiterated his concern that several of the proposed requirements are going to be burdensome especially to the small business owners.

Public Comments: Mr. Jeremy Holder of Ausherman Development provided written comments to the Planning Commission addressing several of the proposed requirements. He began with comments on Article 22.12(b) regarding off-street parking for residential, single and two-family. He believes that the issue deals with the overall design of lots and not the streets. Mr. Holder used the Westfields Development as an example for his presentation. Mr. Holder addressed comments on Article 22.12(e) dealing with recreational travel parking. He does not believe that recreational travel parking areas should not be mandated and would unfairly burden HOAs. Mr. Holder commented on Article 22.12(f)2 dealing with parking stall and access lane dimensions. He expressed his opinion that for low turn-over environments 18-foot deep stalls and 20-foot wide access lanes work very well. Mr. Holder also commented on Section 22.12(f)8ii regarding landscaping. He expressed his opinion that there should be no limit on the percentage of parking landscape areas that can be utilized for non-structural storm water management practices.

- SO-09-001 - Subdivision Ordinance Text Amendment

Ms. Kelly presented for review and comment text amendments to Article II; Article IV; Sections 301, 302, 306.1, 307.1, 307.2, 307.3, 309, 310, 314, 315, 318, 318.4 and 602 of the County's Subdivision Ordinance. Ms. Kelly briefly summarized the proposed amendments.

Discussion and Comments: Mr. Bowen expressed his opinion that Staff should consider recording all approved plats themselves instead of relying on the developer or consultant.

Mr. Reiber asked for clarification of language in Section 310 that states, "extensions could not exceed a period of two (2) years." Mr. Lung noted that the two years refers to the review period from the time the plans are submitted to the Planning Department up to the time it is approved. He stated that in the past plats have been submitted and have been inactive for a long period of time.

Public Comment: Ms. Debi Turpin, Deputy Director of the Homebuilders Association, briefly commented on the proposed text amendment for Section 315. She expressed her opinion that changing the recordation time of an approved plat from two (2) years to 90 days is too extreme and is a "big mistake". Ms. Turpin noted that when the plat is recorded, the developer begins paying taxes on the property, which based on today's economy could be an economic burden to the developer. Mr. Thompson stated that Ms. Turpin recently contacted him regarding her concern and Staff is going to review this issue.

Mr. Holder of Ausherman Development expressed his concern regarding the approval period for a preliminary plan. He noted that a developer performs a "balancing act" in phasing a project and bringing the plans forward for approval. Mr. Holder stated that if a plan is submitted and inactive for a period of time, the developer faces the possibility of regulations changing. He noted that preliminary plans include engineering drawings for the entire project, which includes grading for the site and designing the utilities. Mr. Holder stated, "If you approve a plan, there is an expectation sent to the Planning Commission, that as long as someone is pursuing in good faith the plan that they started, that they are able to finish that." Mr. Holder believes that he has addressed the wrong section of the Subdivision Ordinance, but suggests that his comments be taken into consideration and the appropriate section of the Ordinance should be reviewed. Mr. Thompson stated that the preliminary plan language needs to be addressed in conjunction with the Adequate Public Facilities Ordinance.

Ms. Kelly noted that the language proposed for review of a preliminary plat approval beyond the two year period would require approval for an extension by the Planning Commission and not the Director.

- RZ-09-005 – Zoning Ordinance Text Amendment

Mr. Stachoviak presented for review the proposed text amendment of Article 22, Sections 22.81 and 22.82 and Article 28, Section 28.47 of the Zoning Ordinance. The purpose of the text amendment is to provide consistent definition for Open Space. Mr. Stachoviak briefly summarized the proposed text amendment.

There were no comments from members of the Planning Commission or public.

- SO-09-002 – Subdivision Ordinance Text Amendment

Mr. Stachoviak presented for review the proposed text amendment to Article 2, Section 202 and Article 4, Section 412 of the Subdivision Ordinance. The purpose of the text amendment proposes to require in the Urban Town Growth Areas dedication of Open Space for Parks and Recreation land in developments of a specific size. Mr. Stachoviak briefly summarized the proposed text amendment. He noted that the intent of the amendments will allow the County to continue to meet acreage goals for open space established by the Maryland Department of Planning and the Department of Natural Resources. These goals relate to Program Open Space funding. Mr. Stachoviak explained that as long as a County continues to meet its goal, the County may use 100% of its Program Open Space funding for development purposes. He noted that Washington County's goal is 15 acres per 1,000 people of park and open space area. Counties that do not meet their goal must use 50% of the funding for land acquisition and 50% for development. The goal of the proposed amendment is to insure future residential subdivision development in the Urban Growth Area helps keep pace with the State and County goal and to provide

adequate neighborhood and community parks for recreation and open space in the higher density areas of the County. The proposed amendments specifically target the neighborhood and community park and recreation land categories, which is a part of the overall 15 acres per 1,000 people. In this case, the neighborhood and community park category is a total of 6 acres per 1,000 people. The amendments exempt smaller subdivisions below a threshold of 74 dwelling units.

Discussion and Comments: Mr. Bowen asked if a developer proposes a park would the parking facilities be considered part of the open space area. Mr. Stachowiak stated it would not count as part of the acreage for open space. Mr. Kercheval questioned that comment because if the County parking areas for a park can be included as part of the acreage to meet State criteria, why wouldn't a developer's parking area be included. Mr. Stachowiak stated that he would further clarify the statement in the definitions.

Mr. Kercheval expressed his opinion that open space should be calculated differently for apartments and condominiums because the units are smaller and the area is more condensed. Mr. Kercheval began a discussion regarding Section 412 (B) (5) that states, "Title to the open space/park land shall be held by an established homeowners association in which membership is mandatory and automatic upon conveyance of title or any lot or unit in the subdivision." Mr. Thompson stated that currently homeowner associations are required only in Planned Unit Developments (PUDs). Mr. Lung noted that open space is not required in any other type of subdivisions. Mr. Kercheval expressed his opinion that off-site open space or payment-in-lieu for open space requirements should be explored. Mr. Thompson stated that he has been advised by the County Attorney's office that payment-in-lieu is not an option for open space requirements. Several Commission members objected to the mandatory homeowners associations citing the requirement as an undue hardship on developers and residents. Staff pointed out that the open space land could be accepted by the Board of County Commissioners and maintained by the County. However, if the County does not accept the open space area, someone needs to maintain it.

Public Comments: Mr. Jeremy Holder of Ausherman Development expressed his personal opinion that while he understands not everyone wants to be part of a homeowners association, open space needs to be maintained. He expressed his opinion that the 1 acre/73 dwelling units may not be the "right trigger" for open space requirements and suggested that density should be considered. For example, if the residential lots are larger (such as 2-acres), there might not be the need for open space area. However, smaller lots, such as those located within the UGA, should have a planned open space area. Mr. Holder believes that smaller developments as well as larger developments should be required to provide open space area. Mr. Holder noted that the definition of a "flood plain" is very broad. He briefly discussed the "flood plain fringe", which can be an appropriate open space location. Mr. Holder questioned the 50% use of remaining parkland as Forest Conservation areas after all other open space requirements have been met.

ADJOURNMENT

Mr. Anikis adjourned the meeting at 9:40 p.m.

Respectfully submitted,

George Anikis, Chairman