

WASHINGTON COUNTY PLANNING COMMISSION

April 20, 2015

The Washington County Planning Commission held a public rezoning meeting on Monday, April 20, 2015 at 7:00 p.m. at the Washington County Court House, Court Room #1, 24 Summit Avenue, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Clint Wiley, Dennis Reeder, Andrew Bowen, and David Kline. Staff members present were: Washington County Department of Planning & Zoning Stephen Goodrich, Director; Jill Baker, Chief Planner; Justin Lindley, Associate Planner; and Debra Eckard, Administrative Assistant.

CALL TO ORDER

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

Staff Presentation

Mr. Lindley presented a map amendment request for MB Realty Group, Inc. for property located at the corner of Jefferson Boulevard and Warrenfeltz Lane, just west of the intersection of Robinwood Drive. The current zoning of the site is RT (Residential Transition). The applicant is planning to rezone a 1.8 acre section of the 6.5 acre parcel to BL (Business Local); the remaining 4.5 acres would remain zoned RT. A subdivision approval and site plan approval would be required if the site is rezoned to BL. The site has gentle slopes and is wooded with a small clearing along Jefferson Boulevard; the entire parcel is unimproved. The original rezoning application was sent to several County and State reviewing agencies and comments relative to the original submittal have been received. Mr. Lindley briefly reviewed the six criteria that should be considered in evaluating a rezoning request. He discussed the change in population, availability of public services, emergency services, and traffic counts. He noted that Jefferson Boulevard is classified as an "other principle arterial" on the road classification map included in the Comprehensive Plan. The primary purpose of the highway is to provide unhindered mobility for regional through traffic. Mr. Lindley briefly reviewed comments received from the Washington County Department of Plan Review and Permitting, which included: "A traffic study would be required for any commercial development that generates 50 or more trips during peak hours. Since Jefferson Boulevard is a State road, the County defers to SHA regarding specific access requirements." The County Commuter provides service to this area via the Smithsburg route. Mr. Lindley discussed compatibility with existing and proposed development in the area. It was noted that the Zoning Ordinance requires an increase in side and rear yard buffers to mitigate the impact from Business Local zoning on residential parcels. The development of the site with a business use may affect traffic patterns in the area. A traffic study and the State Highway Administration entrance requirements would determine if accel and decel lanes would be required. Residential uses surround the property with a few commercial uses within a ½ mile radius.

Mr. Lindley discussed the subject property as it relates to the Comprehensive Plan. The parcel is on the northern edge of the Urban Growth Area boundary which runs along the CSX Railroad tracks on the north end of the parcel. According to the 2002 Comp Plan, the parcel is located in a low-density residential policy area. Low-density residential areas are typically located on the fringe of the UGA and are the transition to agricultural areas. According to the Comp Plan, commercial uses should be located in areas identified as commercial on the Land Use Plan, which are primarily located along major road networks within the UGA. The Comp Plan also recommends the revision of the BL classification within the Zoning Ordinance to be more restrictive in uses and would support neighborhood commercial needs as well as acting in the capacity of a transitional zoning district.

When not part of a comprehensive rezoning, the applicant [in accordance with Maryland law] must provide evidence of a mistake in the original zoning of the property or a change in the character of the neighborhood. For this rezoning request, the applicant has indicated that a mistake in the last comprehensive rezoning in 2012 was made. Mr. Lindley briefly discussed the applicant's justification statement that was submitted with the rezoning application.

Discussion and Comments: Mr. Wiley asked how long it took to adopt the latest Comprehensive Plan and what efforts were made to inform the public of this on-going process. Ms. Baker stated that several community outreach meetings were held, advertisements were published in the local newspaper, and there was coordination with various Town Planning Commissions. She noted that during the comprehensive rezoning in 2012, every affected property owner was notified by mail and back page advertisements were published in the local newspaper.

Applicant's Presentation

Mr. Edward Kuczynski, 55 North Jonathan Street, Hagerstown, Maryland, the attorney representing MB Realty, was present during the meeting. He introduced the applicant, Mr. Matthew Beckham, 1422 Burtonwood Drive, Suite 200, Gastonia, North Carolina.

Mr. Kuczynski noted that additional information was distributed to Commission members just prior to the meeting. He gave a brief presentation relative to the background of this request. After hearing the comments regarding the comprehensive rezoning in 2012, Mr. Kuczynski noted that the property owners, Kevin and Leanne Smith, did not participate in the process to voice their opinions or concerns on this

property. The rezoning application has been precipitated by MB Realty's contract to purchase the property for the construction of a Dollar General store.

Mr. Kuczynski noted that the applicant will be providing information that will support their claim that a mistake was made in zoning this parcel Residential Transition during the comprehensive rezoning of 2012. He began with the change in the population of 122%, which he believes supports the need for more business local uses in the area. Mr. Kuczynski explained that he contacted staff in order to determine if this specific parcel was discussed during the comprehensive rezoning. He believes that it was not specifically discussed and was zoned RT because all of the surrounding properties were zoned RT. He expressed his opinion that the site does not lend itself to residential development due to the topography, slope and geological aspects of the site and the railroad tracks along the northern edge of the property. At the corner of Jefferson Boulevard and Robinwood Drive is a parcel of land which is zoned BL and contains a Liberty gas station and an office building. Mr. Kuczynski expressed his opinion that "creeping" change has occurred from the intersection of Mt. Aetna Road, including the Meritus Medical Center, down Robinwood Drive to the Hagerstown Community College. He believes that these changes accentuate the fact that more consideration should have been given to zoning this property BL.

Mr. Kuczynski stated that the BL zoning does not allow high intensity uses such as Walmart or big box stores. The intended use of this parcel is to construct a Dollar General on only 1.6 acres of the entire parcel. The proposed use would require approximately 31 parking spaces, which suggests a lower intensity use of the property.

Discussion and Comments: Mr. Bowen expressed his opinion that a mistake was not made in the zoning of this site and that the commercial uses, specifically the Meritus Medical Center, along Robinwood Drive, the topography of the site, and the property's proximity to the railroad tracks should not be considered relevant to this request.

Mr. Reiber expressed his opinion that the proximity of the commercial sites referenced in the applicant's report are not within the immediate area of the site on Jefferson Boulevard. Mr. Reiber stated that Parcel 143 located slightly to the east of the site is zoned BL; however, Parcel 153 is zoned RT and is directly across the road from the subject site.

Citizen Comments

Mr. Reiber entered into the record, pictures taken by Mr. Nevin Smith, of the rezoning public meeting signs that were posted by the applicant on the property that fell down shortly after being posted.

- Lori Monnett, 20470 Jefferson Boulevard, Hagerstown, MD 21742 – Ms. Monnett stated that there is a lot of traffic on Jefferson Boulevard as well as many traffic accidents that have resulted in damage to her property. The expansion of Meritus has increased the traffic at the intersection of Jefferson Boulevard and Robinwood Drive. She expressed her opinion that the Dollar General should consider re-use of one of the many abandoned buildings in the downtown area or in the County. Ms. Monnett submitted written comments for the record.
- James Wilson, 12010 Warrenfeltz Lane, Hagerstown, MD 21742 – Mr. Wilson expressed his opinion that a mistake was not made during the comprehensive rezoning of the area and residents were notified of all public hearings that were held on the subject. He stated that there is a large volume of traffic going eastbound during the late afternoon hours and believes it would be difficult and unsafe for anyone trying to make a left onto Jefferson Boulevard from the site. Mr. Wilson stated that Warrenfeltz Lane is a private lane and maintained by the residents who live there. He noted there are two large sink holes at the end of Warrenfeltz Lane. He believes that any grading on the subject site could potentially force water runoff onto his property and if a septic field is placed on the subject site, the effluent that soaks into the ground would run into the sinkholes and into the groundwater.
- Seth Wilson, 12010 Warrenfeltz Lane, Hagerstown, MD 21742 – Mr. Wilson submitted written comments for the record and as well as verbal comments. He cited two Board of Zoning Appeals cases that he believes set a precedent for the residential zoning of this property. He noted that numerous improvements have been made to the properties identified as Parcels 1396, 576, 1754 and 682 since the time of these opinions. Mr. Wilson stated that Warrenfeltz Lane is a private road. He noted that there are five existing Dollar General stores within five miles of the subject site, including one located at 22945 Jefferson Boulevard. Mr. Wilson believes that the railroad tracks were present before zoning was established and that development north of the railroad tracks has been hampered by the lack of convenient rights of way. He expressed his opinion that the slopes on the property are steep slopes, not gentle slopes as noted in the Staff Report and Analysis. Mr. Wilson asked if there would be a buffer zone on the commercial site.
- Jessie Marie Jones, 20460 Jefferson Boulevard, Hagerstown, MD 21742 – Ms. Jones stated that she lives in the family home next to the subject site, which was constructed by her grandfather and is the site of numerous family gatherings during the year. She is opposed to the rezoning of the subject property due to safety concerns. She expressed her opinion that constructing a Dollar General store on this property would be "redundant, unnecessary, and unwanted" due to the number of Dollar General stores already located within close proximity to the proposed site.
- Christopher Amos, 20445 Jefferson Boulevard, Hagerstown, MD 21742 – Mr. Amos gave a brief history with regard to his property which would be directly across the street from the proposed Dollar General store. He expressed his opinion that this is a quiet, safe

neighborhood. He stated there is a large volume of traffic on eastbound Jefferson Boulevard during the evenings, which makes it difficult for residents to get on Jefferson Boulevard. Mr. Amos believes that Jefferson Boulevard would need to be widened in this area to accommodate the traffic going in and out of the proposed site.

- Michelle Carbaugh, 12045 Warrenfeltz Lane, Hagerstown, MD 21742 – Ms. Carbaugh stated that Warrenfeltz Lane is a private lane and it is not maintained by the County. She noted that it is very difficult to access or leave Warrenfeltz Lane during peak traffic hours. Ms. Carbaugh stated that when she moved into her home approximately 15 years ago, she tried to get public water to her property and was told that she could not. She expressed her opinion that the Robinwood corridor with all of its commercial uses and the new Meritus medical facility has brought significant traffic to the area.

Applicant's Closing Comments

Mr. Kuczynski reiterated his earlier comment that this specific parcel was not specifically considered during the comprehensive rezoning of the UGA. This is important because this is a Residential Transition area with Business Local zoning in close proximity to the subject parcel. Mr. Kuczynski noted that MB Realty attempted to purchase/lease a site at the corner of Jefferson Boulevard and Robinwood Drive; however, attempted negotiations on that site failed.

In rebuttal to comments made with regard to increased traffic and vehicles entering and leaving the proposed site, Mr. Kuczynski noted that residential development on the site would be faced with the same difficulties. He believes that traffic from a commercial use would be more strictly controlled because the State Highway Administration will be involved during the site plan process. If the property is rezoned to Business Local, any of the principle permitted uses listed in the Zoning Ordinance would be allowed on this site. Mr. Kuczynski stated that the intent of the BL zone is "to provide retail goods and services for neighborhoods".

Mr. Kuczynski believes that traffic has increased in this area due to the construction and expansion of the Meritus health facilities and the growth of the Hagerstown Community College. All of this development has impacted the residential area. He expressed his opinion that this growth can also be used as part of the basis to justify a mistake in the zoning of the property. He stated that zoning should "create the highest and best use of the property in question, not to render it unsaleable or unusable". He believes that the site would be less than ideal for residential development due to its location near the railroad tracks.

Mr. Kuczynski believes that rezoning this parcel to BL makes good planning sense. He noted that BL zoning is intended to blend low density residential properties with neighborhood commercial uses. He stated that issues such as traffic patterns, buffering and utilities would be addressed during the site plan process.

Mr. Reiber stated that the public can submit their written comments to the staff via e-mail or regular mail. The Planning Commission will deliberate and make its recommendation at its next regular meeting. The recommendation will then be forwarded to the Board of County Commissioners. The Board of County Commissioners will hold a public hearing before making its final decision on this request.

Mr. Reiber asked staff to research the legal definition of "spot zoning" prior to the Commission's next regular meeting.

ADJOURNMENT

The Chairman adjourned the meeting at 8:18 p.m.

UPCOMING MEETINGS

1. Monday, May 4, 2015, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 West Washington Street, Room 255, Hagerstown, Maryland

Respectfully submitted,



Terry Reiber, Chairman