

WASHINGTON COUNTY PLANNING COMMISSION
May 5, 2014

The Washington County Planning Commission held its regular meeting on Monday, May 5, 2014 at 7:00 p.m. at the Washington County Administration Building, 100 West Washington Street, Room 255, 2nd Floor, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Vice-Chairman Clint Wiley, Dennis Reeder, Sam Ecker, Drew Bowen and Ex-officio William McKinley. Staff members present were: Washington County Department of Planning & Zoning - Steve Goodrich, Director; Jill Baker, Chief Planner; Justin Lindley, Associate Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting - Terry Irwin, Deputy Director; Lisa Kelly, Senior Planner and Cody Shaw, Associate Planner.

CALL TO ORDER

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

MINUTES

Mr. Reeder made a motion to approve the minutes of the April 7, 2014 regular meeting as presented. The motion was seconded by Mr. Ecker and unanimously approved.

OLD BUSINESS

Community Rescue Service Maugansville Facility (SP-13-029)

Mr. Terry Irwin presented for review and approval a site plan for the proposed Community Rescue Service's facility located along the north side of Oliver Drive on 0.78 acre. The property is currently zoned HI (Highway Interchange). He noted that staff has met with the County Attorney who has determined that no buffer yards are required for the proposed use on this lot. This determination is consistent with previous interpretations and application of this section of the Zoning Ordinance. The County Attorney does not believe the additional buffer yard is applicable to situations where a dwelling is an accessory to another principal permitted use in the HI district.

Discussion: Mr. Reiber asked if all reviewing agency approvals have been received. Mr. Gordon Poffenberger of Fox & Associates, Inc., the consultant, stated that the City of Hagerstown Water Department has recently approved the pre-annexation agreement with CRS. This agreement will be forwarded to the Washington County Health Department.

Public Comment: Mr. William C. Wantz, legal representative for Diamond Development Corporation, stated that only one issue from the previous meeting has been addressed with regard to the setbacks. The second issue to be addressed falls under Section 19.8A, which states that where the adjoining lot is zoned for or contains dwellings, hospitals, nursing homes, etc., there shall be a 75 foot buffer. Mr. Reiber expressed his opinion that staff and the County Attorney's office have addressed the issue.

Motion and Vote: Mr. Wiley made a motion to approve the site plan as presented contingent upon receiving all agency approvals. The motion was seconded by Mr. Reeder and unanimously approved.

NEW BUSINESS

-MODIFICATIONS

Rosewood Village Phase IIB (SV-14-005)

Mr. Irwin (on behalf of Mr. Tim Lung) presented for review and approval a modification request for Rosewood Village, Phase IIB located along O'Neals Place. The applicant is requesting a modification from the previously approved side and rear yard setbacks. The requested side yard setback is from the approved 10 foot setback to 7 feet on Lots 106, 111, 112, 119, 120, 123, 124, 127, 128, 132, 138, 139, and 143 and the approved 20 foot rear yard setback to 14 feet on Lots 124-127. The utility providers and the Department of Emergency Services had no comments on this request. The Department of Plan Review & Permitting has reviewed the project and has no objection to the request if the following conditions are met: certain design and grading issues must be addressed as part of the revised site plan and grading plan review. Mr. Irwin noted that care should be taken when designing the Forest Conservation planting area adjacent to lot 124 to avoid conflicts. The applicant should be aware of the close proximity of the forest area to the setback area.

Discussion and Comment: Mr. Reiber asked why the modification was needed. Mr. Steve Cvijanovich of Renn Engineering stated it is due to changes in the design of the townhomes by the current builder that are different from the original proposal. The current design has projections such as bay windows and entry bays that extend the current setback. Mr. Bowen asked if the design of additional buildings in other phases of the project have been reviewed to assure that another modification will not be needed. Mr. Sassan Shaoool, developer of Rosewood Village, stated that this unit is not being built anywhere else right now; and, if this building footprint is used in other phases, the request for reductions will be made during the initial phase of the project, not as an amendment.

Mr. Cvijanovich stated that the applicant is aware of the Forest Conservation requirements and has no objections.

Motion and Vote: Mr. Bowen made a motion to approve the modification request contingent upon meeting all requirements outlined by the Department of Plan Review & Permitting. The motion was seconded by Mr. Ecker and unanimously approved.

-SUBDIVISIONS

Van Lear Manor – Section 17, Lots 563-577 (PP-13-003)

Ms. Kelly presented for review and approval a preliminary plat for Section 17, Lots 565-577 of Van Lear Manor located along Hershey Drive. The property is currently zoned RT (Residential Transition). The developer is proposing to develop 15 single-family lots on 7.5 acres. All lots will have frontage onto Hershey Drive, which is an existing County road. All lots will be served by existing public sewer and public water. Forest Conservation requirements were met by retaining forest on Lots 565-571. The Forest Conservation Plan for this area of Section 17 was previously approved as part of Section 16 in 2000. All agency approvals have been received.

Motion and Vote: Mr. Ecker made a motion to approve the preliminary plat as presented. The motion was seconded by Mr. Reeder and unanimously approved.

-SITE PLANS

U.S. Silica – Tonoloway Ridge Phase I (SP-13-018)

Mr. Shaw presented for review and approval a site plan for U.S. Silica – Tonoloway Ridge Phase I located along the east side of Woodmont Road (Tax Map 31, Parcel 12). The site is exempt from Forest Conservation Ordinance requirements because it is being used for surface mining. All structures, parking spaces, etc. will meet the zoning setbacks required by the Washington County Zoning Ordinance. The Maryland Department of the Environment mining program reviews, approves, inspects and addresses compliance issues for sediment and erosion control and storm water management for all areas within the limits of mining. This plan was presented to the Board of Zoning Appeals (AP2013-001) on March 1, 2013. The BZA granted authorization to utilize up to a 5 acre portion of the Betty J. Hoffman property for access, crushing and loading of materials for off-site transport of sandstone that will be extracted from the adjoining lands of U.S. Silica. The property is currently zoned EC/IM (Environmental Conservation with the Industrial Mineral overlay). The mining permit area is 82.7 acres. The hours of operation will be Monday through Friday, 7:00 a.m. to 7:00 p.m. There will be up to 100 truck trips per day with one fuel truck per day. Staff has no objection to the approval of this plan as presented because it meets as Zoning Ordinance requirements.

Discussion and Comments: Mr. Michael Shifler of Fox & Associates, Inc. introduced several representatives from U.S. Silica: Mr. Drew Anderson, Director of Mine Planning & Development; Scott Griffin, Berkeley Springs Plant Manager; Carol Hudak, Permanent Project Manager; and Jerry Brumbaugh of Wampaw Hardware Company. Also present was Tim Kellerman from Triad Engineering. Mr. Anderson gave a brief history of U.S. Silica and its mining operations and Mr. Griffin gave a brief description of the quarrying and processing methods used.

Mr. Wiley asked if production would be moved to Hancock. Mr. Anderson stated there are no plans to move production at this time, which would require a lot of capital funds. Mr. Wiley asked how many trucks are used in the course of a day at the Berkeley Springs facility. Mr. Griffin stated this is a rail and truck facility with approximately 50 to 60 trucks per day. Commissioner McKinley asked if Woodmont Road would be adequate to handle the trucks. Mr. Shifler stated that a road adequacy determination was performed on Woodmont Road as required by the County's Road Adequacy Policies. U.S. Silica will be required to post a bond for approximately \$230,000 to guarantee that the road will be repaired if it can be proven that the truck traffic is damaging Woodmont Road. Members also discussed the water and environmental effects on the surrounding area, blasting effects on surrounding properties, screening for adjacent properties; natural reclamation of abandoned mining areas, etc. Mr. Wiley asked if there is a plan in place to provide water for neighboring properties if there is an emergency situation related to the mining of this property. Mr. Anderson stated there is a plan in place and U.S. Silica would provide water for residents and farm animals if it is determined that the mining activity has damaged private wells.

Mr. Shifler stated that all applicable permits have been received from Maryland Department of the Environment.

Motion and Vote: Mr. Bowen made a motion to approve the site plan as presented. The motion was seconded by Mr. Ecker and unanimously approved.

OTHER BUSINESS

RZ-14-001 – Cumberland Valley Veterinary Clinic Real Estate LLC and UP Associates Limited Partnership Recommendation

Ms. Baker reminded Commission members that a public meeting was held on April 21st to receive public comment on the proposed rezoning of property located at 17743 and an adjacent portion of a larger parcel addressed as 1302 Virginia Avenue. The total area to be rezoned is 5.69 acres (1.64 acres owned by Cumberland Valley and 4.05 owned by UP Limited Partnership). Both parcels are currently zoned RU (Residential Urban) and the request is to rezone those properties to BG (Business General).

Discussion and comments: Mr. Reiber made an inquiry regarding the proposed outdoor kennels in the BG zoning district. Ms. Baker stated that indoor kennels are permitted and the outdoor kennels would require a special exception from the Board of Zoning Appeals. A site plan will be required if the BZA approves the special exception request for outdoor kennels. Commissioner McKinley asked if the comment from Mr. Larry Michaels with regard to no permits being obtained for the existing outdoor kennels is a true statement. Ms. Baker stated that staff cannot confirm or deny this statement for several reasons: 1) this business has been in existence since the 1940's; 2) there was a fire at this location which damaged a significant portion of the building; and 3) the permitting records only go back to 1996. However, there are no violations for this property on file since that time. Mr. Reeder pointed out that in Mr. Michaels' letter, he states that he purchased his current property from Dr. Baker in 1978, who was part of the veterinary clinic at the time. There was a brief discussion regarding the noise and odor issues, which could be addressed during the special exception hearing and again at the site plan phase of the project. Mr. William Wantz, the applicant's attorney, stated that the applicant is purchasing a portion of the neighboring property, which is forested, from UP Limited Partnership to act as a buffer for the neighboring properties.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the rezoning request to the Board of County Commissioners. The motion was seconded by Mr. Reeder and unanimously approved with Commissioner McKinley and Mr. Wiley abstaining from the vote.

RZ-14-002 Rural Business Recommendation

Mr. Goodrich noted that the purpose of this amendment is to make the zone function properly and to correct problems that have arisen since its adoption in 2005. The Rural Business-Existing (RB-E) zoning was assigned to rural businesses in order to allow them to continue to operate, while still monitoring expansion. Under the current RB-E zoning, expansion is allowed; however, the expansion is reviewed based on a series of six criteria. If you triggered no more than two of the six criteria, only a site plan is required for the expansion. If three or more of the criteria are triggered, an applicant would need to go through the rezoning process with an abbreviated schedule. The current RB-E zone has no underlying zone; therefore, if the business ceases to operate and the property is sold (not for a business), a rezoning would be necessary to assign the proper zone for a new use. The proposed Rural Business zoning would not have the six criteria associated with it for expansion. All properties that currently have the RB-E zoning will not change, with the exception of one specific individual request. These properties will all receive an underlying zone with the Rural Business floating zone.

Ms. Baker explained how the Euclidean zone would go dormant and the Rural Business floating zone would be on the property until such time as the business ceases to exist. She reiterated that there will be no changes to existing land uses permitted, no changes to parking requirements, etc. Mr. Reiber expressed his opinion that people are confused and mistrusting. He believes a statement saying "there will be no changes" needs to be added to the text. Mr. Goodrich explained that if the amendment is adopted, the confusing text would be eliminated.

There was a discussion regarding the 35%/45% expansion language that is proposed in the text amendment. Ms. Baker noted that currently non-conforming uses are limited to a 35% expansion. She noted there were several comments and questions during the public rezoning meeting held on April 21st. Staff responded to those comments with the following proposed solutions:

1. Instead of using the phrase "increase in the original area of the use", language could be added that creates a definitive point in time, such as "the effective date of the amendment", or add a specific date (if the amendment is approved).
2. Language could be added to clarify that new rural businesses will not be subject to the expansion clause during their initial establishment.
3. Add language to clarify that the expansion percentage is based on a per application basis.
4. To address the smaller rural businesses that could be disproportionately affected, language could be added to the 35% maximum, such as "Expansions would be limited per application to a 35% expansion or 5,000 square feet, whichever is greater."

Mr. Ecker expressed his opinion that a limitation on expansion is not needed and that the County already has too many regulations. Mr. Goodrich noted that people living in a rural area expect to have a rural area without a lot of businesses. Creating a percentage would allow the rural businesses to expand and would also give neighboring residents a say of what happens in their community by requiring a special exception or a rezoning. Commissioner McKinley believes that the term "rural" is very subjective and that business owners should be able to expand their businesses as much as they want. Ms. Baker noted that

if a business wants to expand, it will need to go through the site plan process, which would give the Planning Commission flexibility to review the project and recommend changes. Mr. Goodrich pointed out that the RB zoned businesses could not expand outside of the RB zoning district without going through a rezoning, which would give the public the opportunity to comment or raise concerns.

Ms. Baker also presented the two individual requests that have been received:

- 14109 Greencastle Pike – Ms. Baker stated this is a residential property and has been for more than 30 years. The owner is requesting the RB-E zoning designation be removed.
- 2403 Harpers Ferry Road – Ms. Baker stated this is the site of the former Mad Dog Saloon which recently sustained a fire. The business use existed at the time of the 2005 rezoning but was not zoned RB-E then. The owners have requested that the Rural Business zoning be placed on their property.

Motion and Vote: Mr. Ecker made a motion to recommend approval of the proposed text and map amendment as amended [remove the percentage limitation] and approval of the two individual requests as presented. The motion was seconded by Mr. Bowen and unanimously approved with Commissioner McKinley abstaining from the vote.

Planning Commission members requested that the actual text [in track changes] be forwarded via e-mail when it is amended.

RZ-13-004 Limited Multiple Parcel Clustering Program Recommendation

Ms. Baker presented for review and recommendation a proposed text amendment to amend the Washington County Zoning Ordinance to add a new section titled Division XII – Limited Multiple Parcel Clustering Program.

Motion and Vote: Mr. Ecker made a motion to recommend approval of the proposed text amendment as presented. The motion was seconded by Mr. Bowen and unanimously approved with Commissioner McKinley abstaining from the vote.

RZ-13-004 Town Growth Area Recommendation

Ms. Baker reminded Commission members that discussions were held during the workshop meeting on April 23rd regarding the Clear Spring Town Growth Area boundary. At the request of the Planning Commission, she presented a map showing the areas currently served by public water and sewer. Ms. Baker contacted the Maryland Department of Planning regarding priority funding areas. She was told that if the Growth Area is removed in its entirety, funding for the planned areas will be in jeopardy. Existing service could possibly get funding, but it would likely take a special exception through MDE; however, new service on vacant properties would most likely not receive funding from the State. This would include funding for repairs or expansion of the existing lines.

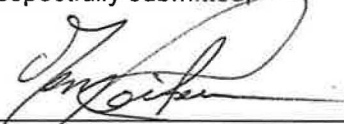
Mr. Goodrich presented a map showing the extent of urban zoning categories as they were in 1973, 1997 and what is currently being proposed. The extent of urban zoning designations has shrunk from the original boundary in 1973.

Motion and Vote: Mr. Reeder made a motion to recommend approval of the Town Growth Area rezoning as discussed during the workshop meeting held on April 23, 2014 to the Board of County Commissioners. The motion was seconded by Mr. Bowen and unanimously approved with Commissioner McKinley abstaining from the vote.

ADJOURNMENT

The Chairman adjourned the meeting at 9:22 p.m.

Respectfully submitted,



Terry Reiber, Chairman