

WASHINGTON COUNTY PLANNING COMMISSION

October 19, 2015

The Washington County Planning Commission held a public rezoning information meeting on Monday, October 19, 2015 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, Dennis Reeder, David Kline, Andrew Bowen and Ex-officio Leroy E. Myers, Jr. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Jill Baker, Chief Planner, and Debra Eckard, Administrative Assistant.

CALL TO ORDER

The Chairman called the meeting to order at 7:05 p.m.

PUBLIC REZONING INFORMATION MEETING

RZ-15-002 – Brian Kurtyka for Heritage Huyett LLC

Staff Presentation

Ms. Baker presented for review and comment a piecemeal map amendment application for Heritage Huyett LLC for property located along the west side of Maryland 63 (Greencastle-Williamsport Pike) approximately 0.1 miles north of US 40 (National Pike). The applicant is requesting the property to be rezoned from RT (Residential Transition) to a portion [approximately 29 acres] being BL (Business Local) and a portion [approximately 61.5 acres] being P1 (Planned Industrial). The request is for two parcels totaling 90.5 acres. In accordance with the Zoning Ordinance, applicants requesting a new P1 zoning district are required to first hold a preliminary consultation with the Planning Commission that outlines the intent of the developer and gives an early opportunity to supply guidance and feedback on the proposal. The preliminary consultation was presented to the Planning Commission at its June 3, 2015 meeting for review and comment. Most of the discussion during that meeting revolved around internal traffic circulation and external access to MD 63. Planning Commission members recommended that the developer provide access to adjoining properties along the southern boundary. This issue has been addressed and is included in the revised concept plan.

Parcel 393, which consists of 82.18 acres is currently unimproved. It has a rolling topography which generally rises up from MD 63 to a high point in the back third of the property and then drops off severely and borders the Conococheague Creek. Parcel 561 consists of 8.32 acres and is currently unimproved. The topography is primarily flat with a gentle upward slope moving away from MD 63. Population data in this area was compiled from the US Census Bureau from 1980 to 2010. The properties are located in the Wilsons Election District (#23). The figures show that the population has increased approximately 83% (or 2.79% per year) while the County's overall population has increased by 30% (or 1.01% per year) during the same period.

Parcel 393 is delineated as a W-3 Programmed Water Service Area and Parcel 561 has a split delineation of W-1 Existing Water Service and a W-1 Restricted Use Existing Water Service. During the preliminary consultation, the City of Hagerstown Water Department commented that they weren't sure that the outlot (assumed to be Parcel 561) would have water service. It was later confirmed by the consultant that water service is available to the parcel. Both parcels are located within an S-3 Programmed Wastewater Service Area. The Washington County Department of Water Quality has stated, "The developer would be responsible for extending the sewer to this property at their expense. Any sewage that flows to this station is subject to a special user fee in addition to the standard tap fee for the Cedar Spring pump station area."

Fire protection service is provided to Parcel 393 by the Williamsport Volunteer Fire Company and Parcel 561 is located within the service area of the Maugansville Goodwill Fire Company. The property is approximately 5 miles away from both fire companies. Emergency services are provided by the Williamsport Volunteer Ambulance Service, which is approximately 5 miles away from the property. This application was sent to the Washington County Department of Emergency Services for review and comment. Mr. Kevin Lewis, Director, responded that there is a desire to locate an emergency substation in the area and asked that the developer work with the Department of Emergency Services during the development of this property to potentially set aside land for an emergency substation.

The subject properties are within the districts of the Conococheague Elementary, Clear Spring Middle and Clear Spring High schools. The requested change from residential to P1 and BL zoning districts would eliminate the potential for residential development and would not have an impact on school capacities.

A copy of the rezoning application was sent to the Maryland State Highway Administration; however, no comments have been received at this time. The Zoning Ordinance states that the developer requesting a P1 zoning district shall provide "...preliminary traffic data that includes available current traffic counts for existing roads within a one mile radius of the site...". The developer has completed a preliminary traffic analysis evaluating existing and projected traffic impacts along MD 63 from its intersection with the Interstate 70 Eastbound off ramps up to the intersection of US 40. The preliminary traffic analysis was sent to the Division of Plan Review & Permitting and they have provided comments related to the traffic analysis, internal traffic issues and storm water management design. The area is currently not served by public transportation.

Ms. Baker stated that the purpose of the BL zoning district is to provide appropriate locations where the retail goods and services needed by a neighborhood population can be made available. Uses permitted in the BL district should provide for routine daily shopping needs of the nearby neighborhood residents and be of an

appropriate use intensity and scale compatible with the adjacent and surrounding residential neighborhood. The purpose of the PI zoning district is to foster industrial development in Planned Industrial Parks that can be built and operated with a minimum of nuisance. Historic structures are another important component of compatibility on and around the parcels being proposed for rezoning. There are 11 historic sites listed on the Washington County Historic Sites Survey that are located within a 0.5 mile radius of the proposed rezoning area; none of these structures are listed on the National Register of Historic Places.

Ms. Baker explained that the purpose of the Comprehensive Plan is to evaluate the needs of the community and balance the different types of growth to create a harmony between different land uses. In the current Comprehensive Plan, both of these properties are located in the sub-policy area Industrial Flex, which reflects a hybrid policy area comprised of different types of economic development associated land uses.

Because this is considered a piece-meal rezoning, the change or mistake rule applies to this request. The applicant must prove there has either been a change in the character of neighborhood since the last comprehensive rezoning or that the legislative body made an error or mistake in the application of zoning at the time of the last comprehensive rezoning. Even when change or mistake has been sufficiently sustained, it merely allows the local governing body the authority to change the zoning; it does not require the change. In this case, the applicant has claimed that there was a mistake made in the last comprehensive zoning of 2012.

Ms. Baker noted that the last comprehensive rezoning of this property was in 2012. Initially this property was proposed to be zoned PI. At that time, the property owner appeared at a County Commissioner public hearing and noted that a subdivision was proposed on this property and requested that the property be zoned RT. The local legislative body reacted to the request and changed the zoning to RT under the assumption that the residential plat for Powers Estates [a 118 lot subdivision] had been approved and recorded. Staff has recently discovered that the plat was approved on October 8, 2007 but was never recorded. The collapse of the residential housing market in the late 2000s created the previous property owners inability to market and sell residential lots. The property was then conveyed to the bank and then to the current property owner. Staff believes that because the subdivision plat was not recorded and all approvals became void in 2009, these facts were not taken into consideration at the time of the rezoning in 2012. If these facts had been known and considered during the rezoning, the local legislative body may have made a different decision on the rezoning of this property. Therefore, there could have been a mistake in the zoning of this property in 2012.

Staff's recommendation, based on the new facts, believes there could have been a mistake made in the zoning of this property because certain facts may not have been considered. The request for the PI zoning is logical and consistent with the Comprehensive Plan; however, BL zoning on a portion of the property has not been contemplated; and, therefore, there is no case for staff to determine that the BL zoning is appropriate and logical.

Applicant's Presentation

Mr. Brian Kurtyka on behalf of Heritage Huyett LLC stated that some of the interior roadways have been re-designed including the T-stub on the southern portion of Parcel 1 to allow better traffic flow and future hook-up to the adjoining properties. He noted that the preferred zoning designation for the larger parcel was PI, which the applicant is now requesting, with the exception of a portion of the front of the property to be zoned BL. The applicant is hoping to attract high-tech and service type businesses; however, when those types of businesses come to the area there is a need for appropriate retail services and food establishments to service the employees who work in these facilities. Mr. Kurtyka stated that the PI zoning district allows for principal permitted uses that are allowed in the IG (Industrial General) and IR (Industrial Restricted) zoning districts, which are intense uses such as heliports, prisons, etc. By requesting the BL zoning district on a portion of this property, the uses will be less intense such as offices and professional type businesses.

Discussion and Comments: Commissioner Myers asked if Randy Shiffer's business has been contacted with regard to using the proposed access. Mr. Kurtyka stated that no discussions have taken place with regard to this issue; however, the applicant would be willing to discuss the matter in the future.

Public Comment

Dick Shank, 16525 National Pike, Hagerstown – Mr. Shank, representing himself as well as President of Wilson Ruritan Club which neighbors the property, asked if sewer is run to this property, will the surrounding properties need to be hooked up to sewer. He expressed concern with regard to traffic issues.

Les Milburn, 17821 Broadfording Road, Hagerstown – Mr. Milburn stated he is representing the Wilson Ruritan Club and asked if the Ruritan would be able to hook onto the water and sewer if it is made available and their system would fail. The Ruritan does not want their zoning to be changed so they may continue to operate as they have in the past.

Kyle Waters, 16400 National Pike, Hagerstown – Mr. Waters stated that his property abuts the south side of the property in question and to the right of the Ruritan building. He noted that he purchased his property approximately one year ago with the understanding that his driveway is currently a County right-of-way. He wanted to verify that this driveway will not be used as an access to the Heritage Huyett property. Mr. Waters is not opposed to hooking up to public water and sewer services if they become available.

Jeff Suder, 16048 National Pike, Hagerstown – Mr. Suder expressed his concern with regard to the wooded area between his property and the property in question. Mr. Bowen stated that is a Forest Conservation area and is located in a floodplain, which makes it a priority area so they will honor it.

Samuel Croteau, 12515 Huyett Lane, Hagerstown – Mr. Croteau asked if the retail shops would be located along Greencastle Pike and if there would be a buffer between Greencastle Pike and the shops. Mr. Bowen stated there would be a buffer.

Comments from Planning Commission: Commissioner Myers expressed his concern with regard to Mr. Waters' concerns about the County using the right-of-way on his property.

Comments from Applicant: Mr. Kurtyka stated that the applicant will address the concerns and comments expressed during this evening's meeting as much as they can accommodate.

RZ-15-004 – Bob and Mary Rotz

Staff Presentation

Mr. Goodrich presented for review and comment a map amendment request for Bob and Mary Rotz for property located at 9729 Garis Shop Road. The property is one acre in size, contains their dwelling, and is currently zoned A(R) – Agricultural Rural. The applicant is requesting the property to be zoned RB – Rural Business floating zone with underlying A(R) (Agricultural Rural). Mr. and Mrs. Rotz currently own and operate a recreation day camp on the adjacent 31 acre parcel, known as Antietam Recreation. They have owned the property where the camp is located since 1971; the camp opened in 1977. Mr. and Mrs. Rotz purchased the adjacent parcel where the dwelling is located in 1983. The applicant, in their request, noted that the one acre parcel has always been considered part of the business on the adjacent property. The dwelling has been used over time for storage, housing camp employees and other camp related activities. The dwelling crosses over the property line and sits partially on the Antietam Recreation parcel. Mr. Goodrich stated that the Staff Report and Analysis stated that no traffic counts were available; however, Staff has discovered that traffic counts are available and will be provided following the public meeting. Traffic counts were taken in 2008 on Wagaman Road, which yielded an average daily count of 1,644 vehicles per day. In 2015, traffic counts showed an average of 1,223 vehicles per day.

Mr. Goodrich reminded Planning Commission members that changes have been made to the Rural Business zoning district, which were adopted by the Board of County Commissioners in August 2015. He noted that the changes were in the procedures and nomenclature used and does not have an effect on the uses permitted on this property. If there is an intensification of the use on the property, the Planning Commission would deal with that during the site plan review process. If it would be determined that the business was becoming more intense than it was in the beginning, the Planning Commission could decide that another public hearing was required. Mr. Goodrich stated that another modification was made to the RB district side yard setback, which was reduced from 100 feet to 50 feet. He noted there are specific criteria which must be met in order to establish the RB zone on a property and the Planning Commission must consider certain items when making its recommendation to the County Commissioners and they are noted in the Staff Report. Mr. Goodrich stated that the Rotzs do not currently have a proposal for development of this property.

Applicant's Presentation

Mrs. Rotz explained that they are requesting the zoning change because the house is located in two different zoning districts, which could cause problems in the future. She noted that in 1971, they purchased the 31 acre parcel that was zoned Agriculture and was developed over the next few years as Antietam Recreation. In 1983 they purchased the adjoining property with the dwelling which was also zoned Agriculture. In 1996 the garage was added to the house and the property owners did not consider that the dwelling would be located on two different parcels of land. There are storage containers, a costume room, and fitness gym located on the one acre parcel that is currently used by Antietam Recreation. In 2005 during the comprehensive rural area rezoning, the 31 acre parcel was rezoned to RB and the Rotzs did not realize that both properties were not going to have the zoning changed. When investigating the possibility of moving part of the junior camp activities to the one acre parcel or the possibility of opening a day care facility, the issue of two different zoning districts became apparent. The Rotzs believe it would be better to have both properties zoned as one zoning designation, Rural Business.

Public Comment

No public comments were received during the meeting.

RZ-15-005 – Emerald Pointe Inc.

Staff Presentation

Mr. Goodrich presented for review and comment a request for consideration of a major change to the concept and development plan for Emerald Pointe PUD located along the east side of Marsh Pike and south side of Longmeadow Road. The property is currently zoned RT (PUD) – Residential Transition with Planned Unit Development floating zone. The PUD zone has been in place since 2003; the zoning will not change regardless of the outcome of this request. The current concept and subsequently approved development plan reflect a long term plan for development of this site and the developer has requested a change to that plan. In September, the Planning Commission determined that the proposed change is a major change, which has triggered this public review process. The current concept and development plans show 259 dwelling units on single-family, townhouse, and semi-detached lots, a commercial area and community center in the middle of the residential development and a retirement living center at the intersection of Marsh Pike and Leitersburg Pike. The proposed changes that will be considered this evening are as follows: removal of a 9,000 square foot commercial building from the residential area, expansion of the community center and provision of additional amenities for the residents of the development including a commercial component (either a restaurant or a café) in the community building, revision of phasing lines for residential portions that have already been developed or will be developed in

the future, and a change of the retirement living center to a commercial area. The proposed commercial area does not include a convenience store as a previous plan did; it includes a two-story bank and office structure instead.

Mr. Goodrich stated that the County Commissioners approved the PUD floating zone on this property in 2003. The concept plan included 259 dwelling units, a commercial area and community center in the interior of the development and 8 acres of retirement living center at the intersection of Marsh Pike and Leitersburg Pike. A development plan, which mirrors the concept plan and is the official guide for the site development, was approved in 2007. In 2013, the developer proposed a change to the development plan and replaced the retirement living center with a commercial area, which included a convenience store. The Planning Commission determined the proposed change was a major change and triggered the public review process. The Board of County Commissioners approved the change to the concept and development plans in 2014, following public input and two public hearings. The decision by the County Commissioners was appealed to the Circuit Court who reversed the decision citing its opinion that the Zoning Ordinance did not contain the authority for the County Commissioners to approve a major change or any guidelines to approve a major change. Therefore, the plan approved by the County Commissioners in 2014 became null and void and the previous plan [approved in 2007] became the approved plan that was in effect. It was not the County's intention that PUDs could never change and that long-term development plans need to have some degree of flexibility because conditions change and community needs change. Following the Court's ruling that the County had no guidelines to approve a major change, a text amendment was approved by the County Commissioners in August 2015 to the PUD section of the Zoning Ordinance. After the text amendment was adopted, which provided the authority and guidelines to approve a major change in a PUD concept, Emerald Pointe Inc. submitted a new plan to the Planning Commission proposing a change which the Planning Commission determined to be a major change; and, therefore, the review process has begun again.

Mr. Goodrich briefly reviewed the guidelines from the Zoning Ordinance that the Planning Commission should follow in order to make its decision and recommendation to the Board of County Commissioners.

Applicant's Presentation

Mr. Jason Divelbiss, 13424 Pennsylvania Avenue, Suite 302, Hagerstown, counsel to Emerald Pointe, Inc., noted that although the exhibit shown at the meeting is labeled as a revised preliminary/final development plan, the request is to revise the concept plan. Mr. Divelbiss emphasized that if the concept plan is approved there will still be the development plan and site plan phases that the commercial area and revised community center area will need to go through. He noted that the 60,000 square foot of mixed use retail buildings along Marsh Pike remain part of the plan. Mr. Divelbiss explained the criteria upon which the Planning Commission needs to evaluate the proposed changes as follows:

- Purpose of the PUD district: "The purpose is to permit a greater degree of flexibility and creativity in the design and development of the residential areas than is possible in a conventional zoning district. The purpose is also to promote a more economical and efficient use of land while providing for a harmonious variety of housing choices, a more varied level of community amenities and the promotion of adequate open space and scenic attractiveness."
 - Justification: Both the expanded community center and the proposed commercial area are consistent with the purpose of the PUD zoning district. Both are on land that has been approved for development [2003 concept plan], both are an efficient use of land, both facilities would provide community amenities in the form of additional recreation areas, local retail and office space to accommodate local residents, both incorporate elements of open space, and both are designed to be attractive additions.
- Applicable policies of the Comprehensive Plan: The community center is consistent with the mixed use development policies of the Comprehensive Plan. In Article 2, Chapter 4 (Economic Development section), it states that for commercial and office use infrastructure and utilities should be available or capable of being provided.
 - Justification: The proposed community center and the commercial and office space are part of an existing PUD that is partially constructed with infrastructure being provided. Therefore, the applicant believes they have met the criteria for this revision.
- Access to the interstate should be over arterial highway routes that do not require movement of heavy traffic through residential neighborhoods.
 - Both Marsh Pike and Leitersburg Pike provide access to I-81 without going through the residential neighborhoods, except for the area of roadway running from Leitersburg Pike to Longmeadow Road via Marsh Pike. Therefore, this meets the policy of providing access to arterial roadways quickly and efficiently from the proposed development.
- Ability to mitigate development impacts on sensitive environmental, historical, or cultural features.
 - Justification: The revisions are being proposed as part of a previously approved PUD, and all of the above components have been evaluated and deemed acceptable.
- Avoidance of areas where there is a high probability of incompatibility with existing residential development:
 - Justification: The applicant believes that adequate buffering has been provided along the Marsh Pike side as well as the north side of the project adjacent to Emerald Pointe. Therefore, given the buffering and the specific site design the criteria for compatibility have been met.
- Retail commercial sites are located where they best service the market niche, being targeted whether regional, community-wide or neighborhood.
 - Justification: The proposed commercial area is focused primarily on the local community and is located and oriented on the side to be accessible by a car, bike or walking path.

- Compatibility of the proposed PUD with the neighboring properties consistent with the policy of the Comp Plan.
 - Justification: The applicant believes that adequate buffering has been provided because this is a transitional area from the commercial areas to the south along Lettersburg Pike and the residential areas of Emerald Pointe, Foxleigh Meadows and Spring Valley [further to the north]. The applicant believes that the proposed mixed use of retail and office space continues to meet the criteria of a transitional area and is therefore compatible with the neighboring properties.
- Effect of the PUD on community infrastructure.
 - Justification: With regard to water and sewer, the revisions are being proposed as part of a previously approved PUD and all of these components were previously evaluated and deemed acceptable.

Mr. Divelbiss addressed several points related to traffic issues.

- Design standards provided in the PUD zoning that states, "In general non-residential development proposed as part of a PUD shall be integral to the overall development and shall relate well to residential areas in terms of pedestrian and vehicular circulation. Mr. Divelbiss stated that this is a policy, not a requirement, of interconnection to the residential area and the commercial area. There are several reasons why the development has not been designed with a direct connection between the commercial area and the residential area. Primarily, it would be contrary to some of the policies identified previously in the Comp Plan; in particular, quick and efficient access onto arterial roadways. Providing a direct connection into the Emerald Pointe residential area, there could be potential problems with cut-through traffic, incompatibility with multiple driveways along the roadway, etc. The applicant believes that the proposed design minimizes the impact on infrastructure and complies with related policies. The lack of a direct roadway connection does not prohibit the commercial area from relating well to the residential area. The applicant believes that the relation for pedestrian and vehicular circulation can be achieved, for the most part, by connecting with sidewalks; a 12' wide pedestrian/bike/golf cart path is proposed.

- Access of this development onto Marsh Pike: Mr. Divelbiss entered into the record applicant's Exhibit #1, an aerial photograph of the Marsh Pike/Gentry Drive area showing a rudimentary rendering of the access design for the proposed commercial area. He expressed his opinion that the drawing shows significant improvements on Marsh Pike after development in the vicinity of Gentry Drive that will improve existing conditions as opposed to further deterioration or impact on existing traffic conditions. These improvements have been reviewed and approved by both the State Highway Administration and Washington County Engineering. Mr. Divelbiss noted that the current concept plan approved as part of the 2003 PUD does not have access onto Route 60; therefore, the retirement living center and 60 should help alleviate traffic impact onto Marsh Pike by further spreading and distributing traffic to two access points rather than one access point. He also noted that the 13,600 square feet of mixed use that replaces the previously shown convenience store will generate less traffic than the convenience store. Mr. Divelbiss entered into the record applicant's Exhibit #2, a letter from the Maryland State Highway Administration stating that they are satisfied with the proposed improvements and access onto Route 60. SHA believes that the proposed mixed use will generate less traffic than what was projected and utilized in the traffic impact study for this development.

Public Comment

Martin Palmer, 21 Summit Avenue, Hagerstown – Mr. Palmer expressed his opinion that the County does not need more commercial space. He also believes that empty stores, such as the ones that currently exist at the Long Meadow Shopping Center, should be revitalized and re-used before new commercial development takes place. He expressed his opinion that the developer is using a "bait and switch" tactic by presenting one plan and then coming back at a later date and changing that plan.

Karen Spessard, 19421 Moonstone Drive, Hagerstown – Ms. Spessard is a current resident of the Emerald Pointe PUD and she supports the proposed revisions. She expressed her opinion that the developer's completed plans will be beneficial for the residents of Emerald Pointe as well as the surrounding community and the Emerald Pointe development will benefit Washington County as a whole.

Dan Kaminsky, 13136 Hepplewhite Circle, Hagerstown – Mr. Kaminsky is a resident of Foxleigh Meadows. He expressed his opinion that the proposed changes as submitted by the applicant do not conform to the BL (Business Local) district requirements as defined by the current Zoning Ordinance. Mr. Kaminsky expressed his opinion that the development now falls under the MXC (Mixed Use Commercial) zoning district and described the purpose of this zoning district as stated in the Zoning Ordinance. He referenced several articles from the Zoning Ordinance including those dealing with the uses permitted in the BL district and the definition of neighborhood shopping centers. He discussed the intent, limits and definitions of the MXC and BL zoning districts. Mr. Kaminsky submitted his written comments for the record.

Joe Sebrosky, 19250 Jamestown Drive, Hagerstown – Mr. Sebrosky stated that he is a resident of Foxleigh Meadows and the only access to his property is via Gentry Drive. He expressed his opinion that the proposed commercial uses are not compatible with the residential development of Foxleigh Meadows due to noise, lighting and dumpsters that will accompany the commercial uses. He also expressed concern that there is no buffering between the proposed commercial area and the residential area of Foxleigh Meadows. Mr. Sebrosky expressed his opinion that making a left turn from Gentry Drive onto Marsh Pike will be impossible after the Emerald Pointe commercial development is built-out. He expressed his opinion that access to the commercial area is

incompatible with Foxleigh Meadows and he believes the Planning Commission should re-visit the location of the access into the commercial area.

Applicant's Rebuttal

Mr. Divelbiss began his rebuttal addressing Mr. Palmer's comments regarding the empty stores at Long Meadow Shopping Center. He noted that commercial development can be compatible in other locations even if other retail spaces in the area are unoccupied. There are many reasons why commercial space can be unoccupied, including age, location, size of the building, square footage rates, etc. Mr. Divelbiss believes that if the developer can provide a different, more marketable location for certain retailers and commercial users who would not otherwise be inclined to occupy space, then he is serving an underserved market. He expressed his opinion that the "bait and switch" tactic that Mr. Palmer referred to is an unfair characterization because Mr. Palmer is not a person to which any representations were made; and, therefore, he has no grounds on which to make that contention. Mr. Divelbiss pointed out that language in the Zoning Ordinance for the PUD identifies reasons why there may be a need to change a previously approved concept plan due to changes in the needs and conditions of the neighborhood.

To address Mr. Kaminsky comments, Mr. Divelbiss stated that the references to the MXC zoning district are not applicable because this development is a PUD (Planned Unit Development), not a Mixed Use Commercial development. He explained that the definition of a "neighborhood shopping center" is a subcategory of a planned business center, which is not identified in the BL zoning district. The intent, by definition, of a planned business center and a neighborhood shopping center is intended to be a retail shopping center; thus the criteria to the definition that says no more than 25% of the gross floor area may contain uses other than retail sales. Therefore, if you have more than 25% of a retail use you are not a planned business center or any other of the subcategories thereof including a neighborhood shopping center. The applicant is proposing more than 25% retail, therefore, the plan does not meet the definition of a "neighborhood shopping center" and is not subject to the 25,000 square foot referenced figure. The 9,000 square feet of commercial space that was shown on the interior of Emerald Pointe is being eliminated and the proposed commercial/retail area is replacing the interior commercial area.

Mr. Divelbiss expressed his opinion that the issue of compatibility is subjective and he believes there is a natural separation [Marsh Pike] from Foxleigh Meadows and Emerald Pointe. Marsh Pike is not a narrow roadway, it's a wide right-of-way that is currently occupied by only a few lanes. The developer is proposing significant improvements to Marsh Pike which have been reviewed and approved by the State Highway Administration and Washington County Engineering. Mr. Divelbiss reiterated that a new access is not being proposed onto Marsh Pike; it already exists as part of the previously approved PUD.


Comments from Planning Commission members: Mr. Reiber asked if a traffic study and signal warrant analysis was previously done on Marsh Pike. Mr. Divelbiss stated that the signal warrant analysis was completed as part of the traffic studies. The traffic study determined that a traffic signal is not warranted at Marsh Pike and Gentry Drive at this time; however, it may be warranted closer to full build-out of the project. Mr. Divelbiss stated that the developer may not install a traffic signal at this location until it is warranted per direction from the County Engineering Department. The developer will install the underground infrastructure in order to facilitate a signal when it is warranted.

The Chairman stated that the record for all of these cases will remain open until the end of the public hearing by the Board of County Commissioners. Written comments may be forwarded to the Washington County Department of Planning & Zoning.

ADJOURNMENT

The Chairman adjourned the meeting at 9:05 p.m.

Respectfully submitted,


Terry Reiber, Chairman