

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
June 6, 2016**

The Washington County Planning Commission held a regular meeting on Monday, June 6, 2016 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, Jeremiah Weddle, Dennis Reeder, Andrew Bowen, and Ex-Officio County Commissioner Leroy Myers, Jr. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Eric Seifarth, Rural Preservation Administrator; Chris Boggs, Land Preservation Planner; and Debra Eckard, Administrative Assistant; and Washington County Department of Plan Review – Tim Lung, Deputy Director.

**CALL TO ORDER**

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

**MINUTES**

**Motion and Vote:** Mr. Bowen made a motion to approve the minutes of the May 2, 2016 regular Planning Commission meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved.

**OTHER BUSINESS**

**AD-90-064 – Formerly Leon and Doris Bowers Agricultural Preservation District**

Mr. Seifarth stated that the County Agricultural District Ordinance was established in 2009 whereby a land owner may enter into a preservation district for a period of 10 years or more. In exchange, the land owner receives property tax credits. There is approximately 28,000 acres currently enrolled in the program. Mr. Boggs stated that Mr. Arciniegas contacted the Department of Planning & Zoning looking for information regarding the Leon and Doris Bowers property situated along Hoffmaster Road in Knoxville. He was considering the purchase of this property with the intention of subdividing lots off of a portion of it near the road frontage. A State Ag District was originally established on this property in 1990, which at the time of Mr. Arciniegas' inquiry, would have been beyond the 10 year agricultural district restriction; and, therefore, could be terminated at the will of the landowner. At the time of the inquiry, Mr. Boggs did not realize that a new Ag District had been established in 2012 which restricts development for a 10 year period. Mr. Arciniegas purchased the property and an adjacent property with the assumption that he would be able to subdivide because the district could be easily terminated.

On April 26<sup>th</sup>, after Mr. Arciniegas had purchased the property, he again contacted staff and that is when the regulation associated with the 2012 Ag District that is not easily terminated was brought to his attention. At that point in time, Mr. Arciniegas wrote a letter to staff asking for a partial termination of the Ag District on approximately 15 to 20 acres citing economic hardship in accordance with Section 9.3 of the Agricultural District Ordinance which states that landowners may apply to terminate an Ag District on the basis of "severe economic hardship". The remaining portion of property would remain in the Ag District program. The Washington County Agricultural Preservation Advisory Board approved, via e-mail vote on May 9<sup>th</sup> and 10<sup>th</sup>, the partial termination. If the Planning Commission also approves this request, a public hearing before the Board of County Commissioners will be required. All three boards must give approval before the Ag District can be terminated.

**Discussion and Comments:** Mr. Reeder asked if the developer could subdivide more lots on the remaining lands after the 10 year period expires. Mr. Seifarth stated that a new road would be required to be constructed by the developer; however, he believes that it would cost more money to build the road than the developer would make on selling lots.

There was a brief discussion regarding road frontage on the proposed subdivision. It was noted that the developer will be required to meet all subdivision regulations and no guarantee was made at the time of purchase that the property could be subdivided.

Mr. Weddle expressed his opinion that the partial termination should be approved because the developer contacted the County prior to purchasing the property and was given the wrong information.

Mr. Bowen expressed his opinion that a developer/land speculator is responsible for researching all documents pertaining to a prospective purchase of land and assumes a certain amount of risk being involved. He does not believe that a "severe economic hardship" has been proven.

Mr. Reiber stated that he "has grave concerns about the interpretation and definition of economic hardships." He does not believe that economic hardship can be proven in land speculation.

**Motion and Vote:** Mr. Weddle made a motion to approve the partial termination of 15-20 acres of the Ag District due to misinformation from County staff that created an economic hardship for the owner with 94 acres remaining in the Ag District. The motion was seconded by Mr. Reeder.

**Comments and Discussion before the Vote:** Mr. Weddle said that he understands Mr. Bowen's position; however, he believes this is the best way to settle the issue without legal repercussions. He also stated that he has worked with staff on many issues and he believes the Commission should support its staff members. Commissioner Myers agreed with Mr. Weddle's comments and he also supports staff. He noted that claiming an economic hardship is the only option to terminate the district.

Mr. Reiber requested that the minutes reflect his belief that if the developer had thoroughly researched and verified the deed restrictions on the property, this would not be an issue. He also believes there is not an economic hardship (i.e. serious illness, foreclosure, etc.) to warrant the termination.

**Vote:** Mr. Weddle, Mr. Reeder and Commissioner Myers voted "Yes" and Mr. Bowen voted "No".

As a side discussion, Mr. Seifarth gave a brief overview of the County's IPP (Installment Payment Program), which was established in 2004. The County pays 10% per year plus interest for a 10 year period for an ag easement. The tax source is a real estate transfer tax which is piggy-backed onto the State tax. The County receives the first \$400,000 every year. In the first 10 year cycle, the County used these funds to purchase county easements. At that time, the Committee had considered using some of the funds for the State Ag Preservation Program, which has a 60/40 match component but rejected the option since sufficient funds for match were coming from the Ag Transfer Tax. It has been suggested that up to half of the \$400,000 each year be used to leverage the State 60/40 match. Mr. Reiber asked that staff make a formal presentation at a later date for the Planning Commission to decide if this is a recommendation it wants to support.

#### **Update of Staff Approvals**

Mr. Lung reported the following: 36 new submittals in May of which 20 were grading, utility and entrance permit reviews; 7 site specific grading plans; 1 forest stand delineation; one preliminary plat including a site plan for Cross Creek commercial (a small commercial building located at MD 65 and Battle Creek Boulevard); 3 minor subdivision plats; 1 simplified plat and 3 site plans including an addition to St. Andrews Church (Virginia Avenue & Halfway Boulevard); a truck tire service facility (French Lane); and entrance improvements to Meritus Health (Robinwood Drive). There were 6 subdivision plats approved for minor subdivisions and a simplified plat and 3 site plan approvals for Pen Mar Board of Realtors, Fahrney-Keedy Community Center and an expansion at Xerxes.

#### **Election of Officers**

**Motion and Vote:** Mr. Bowen made a motion to nominate Mr. Reiber as Chairman. The motion was seconded by Mr. Reeder and unanimously approved.

**Motion and Vote:** Mr. Bowen made a motion to nominate Mr. Wiley as Vice-Chairman. The motion was seconded by Commissioner Myers and unanimously approved.

#### **ADJOURNMENT**

Mr. Bowen made a motion to adjourn the meeting at 7:45 p.m. So ordered by the Chairman.

Respectfully submitted,

  
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 Terry Reiber, Chairman