

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
December 5, 2016**

The Washington County Planning Commission held a regular meeting and a workshop meeting on Monday, December 5, 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, Clint Wiley, Dennis Reeder, Drew Bowen, Jeremiah Weddle, David Kline and BOCC Ex-Officio Leroy Myers, Jr. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Travis Allen, Comprehensive Planner; Eric Seifarth, Rural Preservation Administrator; Chris Boggs, Land Preservation Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review - Tim Lung, Deputy Director and Lisa Kelly, Senior Planner.

CALL TO ORDER

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

MINUTES

Motion and Vote: Mr. Reeder made a motion to approve the minutes of the October 17, 2016 public rezoning meeting as presented. The motion was seconded by Mr. Wiley and unanimously approved.

Motion and Vote: Mr. Wiley made a motion to approve the minutes of the November 7, 2016 regular meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved.

--OLD BUSINESS

Additional Land Preservation Funding Proposal

Mr. Seifarth and Mr. Boggs presented a power point presentation discussing a proposal for additional funding for land preservation. The Agricultural Advisory Board suggested using a portion of the County Real Estate Transfer Tax traditionally directed toward the IPP as local money for the 60/40 matching portion of the MALPP. This presentation focused on two of the County's land preservation programs: IPP (Installment Payment Program) and MALPP (Maryland Agricultural Land Preservation Program). Mr. Seifarth explained that the IPP was begun in 2005 with payments spread over a period of 10 years. Land owners currently receive 2% interest on the outstanding balance each year. The source of funding is a portion of the County real estate transfer tax (RETT), which last year collected more than \$2.8 million. The first \$400,000 every year goes toward the County's IPP. An additional 1,100 acres of the goal of 50,000 acres has been preserved using this program.

MALPP is a State program administered by the Maryland Agricultural Land Preservation Foundation and is funded by various sources through MDA. Currently, the program has 2-year easement cycles for preservation. The traditional source of funding for the 60/40 matching portion of the program is the County's agricultural transfer tax; however, there is not much ag transfer tax currently being collected.

Using local real estate transfer tax for the County's 40% of the match will leverage a larger amount for the State's 60% of the formula and therefore a larger total amount for MALPP easement purchases. The Real Estate Transfer Tax Ordinance does not require funds to be used only in the IPP each year; it can be used in any land preservation program. Mr. Seifarth further explained in detail the proposal and compared the number of easements that could be purchased.

Motion and Vote: Mr. Bowen made a motion that the Planning Commission supports this proposal and recommends that the proposal be approved by the Board of County Commissioners. The motion was seconded by Mr. Kline and unanimously approved.

RZ-16-003 VA Avenue LLC

Mr. Goodrich presented for review and recommendation a proposed map amendment for property located along the south side of Virginia Avenue east of and adjacent to I-70. The property is currently zoned ORT (Office/Research/Technology). The applicant is requesting a change in zoning to IR (Industrial, Restricted). The applicant's case was based on a mistake in the zoning of the property during the 2012 Comprehensive Urban Growth Area Rezoning.

Discussion and Comments: Mr. Kline noted that during the public rezoning meeting many residents expressed concern with regard to traffic related issues. He does not believe that the requested change in zoning would create much difference in the amount of traffic to the site. Mr. Bowen pointed out that regardless of the zoning of the property, plans would need to be submitted and approved by the State Highway Administration before any development could occur on the site. He also noted that many residents questioned the proposed use of the property. He expressed his opinion that the Planning Commission cannot base its decision to rezone the property based on the use. Mr. Kline expressed his opinion that Potomac Edison, which owns the neighboring property, would prefer to have a neighbor that does not object to the industrial nature of its site. Mr. Bowen noted that appropriate buffers would be required for neighboring residential properties. Mr. Reeder concurred with Mr. Kline and Mr. Bowen's comments regarding traffic and buffers.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the proposed map amendment to change the zoning on property located along the south side of Virginia Avenue from ORT to IR to the

Board of County Commissioners. The motion was seconded by Mr. Reeder and unanimously approved with Mr. Wiley and Commissioner Myers abstaining from the vote.

RZ-16-004 ACH LLC

Mr. Goodrich presented for review and recommendation a proposed map amendment for property located along the south side of Western Maryland Parkway and adjacent to MD 144. The property is currently zoned ORT (Office/Research/Technology). The applicant is requesting a change in zoning to HI (Highway Interchange). The applicant's case was based on a mistake in the zoning of the property during the 2012 Comprehensive Urban Growth Area Rezoning.

Discussion and Comment: Mr. Reiber noted that during the public rezoning meeting many residents expressed concern with regard to traffic related issues. Mr. Bowen expressed his opinion that both zoning designations allow uses that could produce a heavy volume of traffic; therefore, changing the zoning on this property from ORT to HI would have the same effect on traffic related issues. He believes that the property was given the appropriate zoning designation in 2012 because it matches the zoning of neighboring properties. However, the applicant's claim for a mistake in the zoning does not mean that poor judgement was used in the original zoning, but there are factors that could have been overlooked at that time. Mr. Reiber expressed his opinion that a mistake was not made in the zoning of the property in 2012. Mr. Weddle believes there are limited areas in the County that can be zoned HI and this property should be rezoned to accommodate that need.

Motion and Vote: Mr. Reeder made a motion to recommend approval of the proposed map amendment to change the zoning on property located along the south side of Virginia Avenue from ORT to HI to the Board of County Commissioners. The motion was seconded by Mr. Kline and unanimously approved with Mr. Wiley and Commissioner Myers abstaining from the vote.

RZ-16-007 Pennsylvania Avenue 2003 LLC

Mr. Goodrich presented, on behalf of Ms. Baker, for review and recommendation a proposed map amendment for property located at 13520 and 13522 Pennsylvania Avenue. The property is currently zoned RS (Residential Suburban). The applicant is requesting a change in zoning to BG (Business General). The applicant's case was based on a mistake in the zoning of the property during the 2012 Comprehensive Urban Growth Area Rezoning.

Discussion and Comments: Mr. Kline stated he is very opposed to this rezoning request. He expressed his opinion that this area is a residential area and he believes there was a mistake made in zoning the two corner properties (at Maugans Avenue) for commercial uses. Mr. Bowen expressed his opinion that going from a residential use to a commercial use would have a significant impact on traffic in this area. He noted that a traffic island currently exists in front of these properties which would allow a right-in, right-out traffic pattern for these properties. He believes the residents' comments made during the public rezoning meeting were warranted and he is opposed to the proposed change.

Motion and Vote: Mr. Kline made a motion to recommend denial of the proposed map amendment to change the zoning on property located at 13520 and 13522 Pennsylvania Avenue from RS to BG to the Board of County Commissioners. This recommendation is based on the Commission's opinion that this is a major change in zoning that would have a significant negative impact on the neighboring residential properties, is not appropriate and logical for the site, and this should be considered 'spot' zoning. The Commission does not believe the applicant provided sufficient evidence that a mistake was made in the zoning of this property during the 2012 Comprehensive Urban Growth Area rezoning. The motion was seconded by Mr. Weddle and unanimously approved with Mr. Wiley and Commissioner Myers abstaining from the vote.

RZ-16-005 Text Amendment

Mr. Goodrich, on behalf of Ms. Baker, presented for review and recommendation a proposed text amendment for various sections of the Zoning Ordinance. He briefly reviewed the proposed changes which included language addressing the State's approval of several new license types for alcoholic beverages. New definitions are being proposed for inclusion in the County's Zoning Ordinance for limited commercial breweries. Other proposed changes include: allowing micro-breweries as a permitted use in the BL (Business Local) district; micro-breweries as a special exception in the rural zoning districts; pub breweries as a permitted use in the BL zone; adding a definition for limited commercial distilleries; limited commercial distilleries as a permitted use in the BL zone and special exception in the rural zoning districts; add mineral classifications of Low, Medium and High; clarify and consolidate the uses referred to as automotive sales, service or repair; delete permission to allow accessory structures in side yards; add car washes as a permitted use in the BL zone; modification to the definition of a convenience store and where it is permitted based on its size; update of definition of mobile and manufactured homes and changes to the text to allow replacements; add sewage pumping stations as essential utility equipment. There were no public comments during the public rezoning meeting.

Motion and Vote: Mr. Reeder made a motion to recommend approval to the Board of County Commissioners of the proposed amendments as presented. The motion was seconded by Mr. Kline and unanimously approved with Mr. Wiley and Commissioner Myers abstaining from the vote.

RZ-16-006 Text Amendment

Mr. Goodrich, on behalf of Ms. Baker, presented for review and recommendation a proposed text amendment dealing with Article 19 of the Zoning Ordinance. He explained that this amendment is in response to a court decision on an issue regarding buffering between uses in the HI zoning district. In the past, County staff has interpreted a portion of the HI zoning district to require buffers for land uses adjacent to HI zoning that were not designated with HI zoning; however, buffers have not been required between two uses that were both permitted in the HI district. This amendment will reflect staff's original interpretation that two permitted uses in the HI zone will not require a buffer between them. The second part of this amendment proposes to delete a portion of the buffering requirements in the Landscaping and Buffering chapter.

Motion and Vote: Mr. Kline made a motion to recommend approval to the Board of County Commissioners of the proposed amendments as presented. The motion was seconded by Mr. Weddle and unanimously approved with Mr. Wiley and Commissioner Myers abstaining from the vote.

--NEW BUSINESS**Myers Limited Partnership, Lots 1B and 1C (S-16-014)**

Ms. Kelly presented for review and approval a proposed subdivision plat for Myers Limited Partnership, Lots 1B and 1C located along Partnership Court which connects with Industrial Lane. The property is currently zoned P1 (Planned Industrial). The developer is proposing to re-subdivide existing Lot 1 into three lots. All lots have existing buildings on them. The remainder will be 1.6 acres, Lot 1B will be 2.4 acres, and Lot 1C will be 1.12 acres. Between 2005 and 2012, approximately 6 variances were granted by the Board of Appeals for a combination of side yard setback reduction, front yard setback reduction, and minimum lot area reductions. Public water and public sewer serve this site. All access is onto Partnership Court. Forest Conservation Ordinance requirements were met in 1999 when the lot was originally developed. All agency approvals have been received.

Motion and Vote: Mr. Wiley made a motion to approve the subdivision as presented. The motion was seconded by Mr. Bowen and unanimously approved with Commissioner Myers abstaining from the vote.

PR Valley Limited Partnership, Lot 4 (S-16-037)

Ms. Kelly presented for review and approval the proposed re-subdivision of a commercial lot (Lot 4) located between Valley Mall Road and Massey Boulevard. The property is currently zoned PB (Planned Business). She reminded the members that in February of 2016, a modification was presented to the Planning Commission to create a new lot on the interior streets owned by the Valley Mall. The modification was approved with the condition that access for both lots would only be from the cul-de-sac that serves the existing hotel. The developer is proposing to subdivide for the remainder to be Lot 4 (1.04 acres) and Lot 4A (0.55 acres). The lots will be served by existing water and sewer. All reviewing agencies have approved the subdivision plat.

Discussion and Comment: Mr. Bowen expressed his opinion that it will be difficult to find a commercial use for the ½ acre site. He believes the developer is creating a hardship for himself and advised the consultant, Fox & Associates, Inc., that the Commission does not want to see the developer asking for modifications for parking, etc. because they have created their own hardship.

Motion and Vote: Mr. Wiley made a motion to approve the subdivision as presented. The motion was seconded by Commissioner Myers and unanimously approved.

Update of Staff Approvals

Mr. Lung reported that 50 new submittals were received by the Department of Plan Review during the month of November. Submittals included the following: Engineering/Permitting review - 28 reviews for entrance, grading and utility permits; Development Plan review – 3 site specific grading plans, 2 standard grading plans, a town plan, and 1 two-year updates; Land Use review – 2 replats, 2 simplified plats, 1 final subdivision plat, 4 preliminary/final subdivision plats, 1 preliminary plat/site plan and 5 site plans. Approvals were issued for Plan Review as follows: several 1 and 2 lot subdivisions; site plan for Sunnyview Towing Company; 1 Forest Conservation Plan for Rose Hill Manor Subdivision (residential subdivision east of Emerald Pointe); and 1 Forest Stand Delineation.

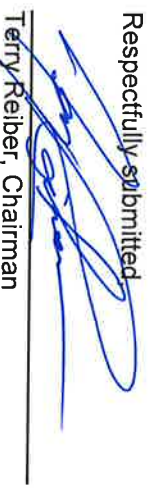
UPCOMING MEETINGS

1. Monday, January 9, 2017, 7:00 p.m., Washington County Planning Commission regular meeting, County Administration Building, 100 W. Washington Street, Room 255, Hagerstown, Maryland

ADJOURNMENT

Commissioner Myers made a motion to adjourn the meeting at 8:20 p.m. The motion was seconded by Mr. Wiley and so ordered by the Chairman.

Respectfully submitted



Terry Reiber, Chairman