

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
February 3, 2020**

The Washington County Planning Commission held its regular monthly meeting on Monday, February 3, 2020 at 7:00 p.m. at the Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, MD.

Commission members present at the meeting were: Clint Wiley, Denny Reeder, Drew Bowen, BJ Goetz, David Kline, and Ex-officio County Commissioner Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Travis Allen, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; Rebecca Calmer, Chief of Plan Review; and Lisa Kelly, Senior Planner.

**CALL TO ORDER**

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

**REZONING PUBLIC MEETING**

**RZ-19-007 – WALCZ, LLC**

**Staff Presentation**

Mr. Allen presented a map amendment application for property located at 14624 National Pike in Clear Spring. The applicant is requesting the extension of a Rural Business floating zone onto an adjacent parcel of land which is .88 acres in size. The property is currently zoned Agricultural Rural – A(R). The purpose of the Rural Business zoning district is to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of rural residents, provide for recreation and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the county. The floating zone, in general, delineates conditions which must be met before the zoning district can be applied to an existing piece of land.

Mr. Allen stated there are certain criteria described in Section 5E.4 of the County's Zoning Ordinance that must be met in order to establish a new Rural Business zoning district. He briefly reviewed these criteria. Section 5E.6c further describes the basis for which the Planning Commission should base its approval or denial recommendation to the Board of County Commissioners.

The RB district shall only be applied to the area identified on the application and shall only be for the use identified in the application. Any changes to the use, intensity or area covered by an approved RB district shall be reviewed by the Planning Commission. Mr. Allen noted that if the rezoning request is approved, a site plan will be required, which will be reviewed by the Planning Commission at a later date.

The map amendment application was routed to several reviewing agencies for comment. The only agency to provide comment was the Washington County Health Department regarding sewer on the property. Because this property is not in an area planned for public sewer, the location and method of sewage disposal on the property is administered by the Health Department. The Health Department stated that the septic reserve area has been compromised and any expansion of the business or change of the land use in the area would require that issue to be addressed.

**Applicant's Presentation**

Mr. Zachary Kieffer, 19405 Emerald Square, Suite 2100, Ofc. 202, Hagerstown, legal counsel for the applicant, and Mr. Will Eby, WALCZ, LLC, 13830 Leisher Court, Clear Spring, the applicant, were present at the meeting. Mr. Kieffer distributed, for the record, Applicant's Exhibit #1 (vicinity map), Exhibit #2 (letters supporting the rezoning request), and Exhibit #3 (deed showing the applicant is the owner of the property). He explained that the applicant wants to add .88 acres of land [currently zoned A(R)] to another property owned by Mr. Eby [Mt. Taber Builders] at 14624 National Pike in Clear Spring [zoned RB (Rural Business)]. Mr. Eby is planning to construct an accessory storage building for his business. The hours of operation will remain the same [Monday thru Friday, 8 a.m. to 4 p.m.].

The Mt. Taber Builders site is adjacent to other RB floating districts along Route 40 which makes it compatible with the surrounding area. There will be no increase in trips to and from the site and no increase in employees.

Mr. Eby stated that the expansion would provide additional parking for his employees, the accessory structure would allow for storage and maintenance of equipment on-site and it would ease the flow of traffic by allowing him to drive around the office building rather than turning around in front of the office which fronts Route 40. Mr. Eby noted that the preliminary site plan has been submitted to the County and the septic reserve issue mentioned earlier has been addressed.

**Discussion and Comments:** Commissioner Wagner asked if the applicant owns the property to the west and has a good relationship with the property owner to the East. Mr. Eby responded that he does own the property to the west and has a good relationship with the neighbor to the east.

**Public Comment**

Mr. John Barr, 12404 Rocky Fountain Lane, Clear Spring – Mr. Barr stated that he lives across the road from Mr. Eby's business. He noted that Mr. Eby operates a very good business with acceptable hours and all neighbors are pleased with the proposed plan. Mr. Barr stated that the .88 acres was purchased from Miller's Farmstead, which operates a business on weekends. He believes that the proposed expansion will help with traffic issues and ingress and egress from the site.

The public rezoning meeting concluded at 7:18 p.m.

**REGULAR MEETING**

The Chairman announced that the Black Rock PUD Development Plan was removed from the agenda at the request of the consultant.

**MINUTES**

**Motion and Vote:** Mr. Goetz made a motion to approve the minutes of the January 6, 2020 meeting as presented. The motion was seconded by Mr. Reeder and unanimously approved.

**-NEW BUSINESS**

**SUBDIVISIONS**

**Paradise Heights, Section B [PP-17-002]**

Ms. Kelly presented for review and approval a preliminary plat for Paradise Heights, Section B, Lots 56 thru 77. The subdivision is located along the north side of Longmeadow Road and is currently zoned Residential Suburban (RS). The developer is proposing to create 22 single family lots on a total of 12.76 acres. Lot sizes will range from 0.3 to 0.5 acres. The new lots will be served by new public streets, Pulaski Drive (extended) and Amesbury Road; there will be no sidewalks. All lots will be served by existing public water and sewer. Forestation requirements are being met by retaining 3.82 acres of existing forest in an approved off-site forestation bank. All reviewing agency approvals have been received.

**Discussion and Comments:** Mr. Bowen asked if the streets will have interconnections to North Village. Ms. Kelly stated the streets would connect to North Village and will eventually connect with the Harper Park subdivision.

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

**SITE PLANS**

**Fairplay Dollar General Store [SP-19-026]**

Ms. Kelly presented for review and approval a site plan for the Fairplay General Dollar Store to be located at the northeast corner of the intersection of Sharpsburg Pike and Lappans Road near Fairplay. The property is currently zoned Rural Village (RV). The developer is proposing to construct a 9,000 square foot store on a 1.56 acre parcel. The proposed building height will be 20 feet. Access will be off of Lappans Road. The Board of Appeals granted a Special Exception in May 2019 to allow for the creation of a retail sales facility at this location. The site will be served by individual well and septic. Hours of operation will be from 9 a.m. to 10 p.m., 7 days per week. Projected number of employees is 6 to 10. Total parking

spaces required is 36 spaces and 37 spaces will be provided. Proposed lighting will be building and pole mounted. Signage will be building mounted with a pole mounted sign at the southwest corner. Solid waste disposal will be provided by a screened dumpster along the side of the building. Landscaping will be located throughout the parking lot and in the bio retention ponds. Forestation for this parcel was addressed by way of a subdivision approval in 2006. All agency approvals have been received except for the Health Department. Well testing is being performed and will be completed as weather conditions allow.

**Motion and Vote:** Mr. Goetz made a motion to grant staff the authority to approve the site plan pending Health Department approval. The motion was seconded by Mr. Bowen and unanimously approved.

#### OTHER BUSINESS

##### Update of Staff Approvals

Mr. Holloway distributed a written report to Commission members and noted the following Land Development projects: 3 inspection and maintenance agreements; 2 simplified plats; 11 standard grading plans; 6 standard stormwater plans; 2 subdivision replats; and 2 traffic impact studies.

##### Demolition Permit [2019-04949]

Ms. Baker presented a demolition permit application for property located at 55 West Oak Ridge Drive (former Review & Herald Publishing Company property). She explained that anytime a demolition permit is submitted for an historic resource, the application is reviewed by the Historic District Commission. Various criteria are used in analyzing the property and in making their recommendation. The demolition permit does not cover the main building, only the existing farmhouse and barn located on the property. The applicant is proposing a commercial development on the property. The applicant appeared before the Historic District Commission (HDC) at its January 8<sup>th</sup> meeting (copies of minutes provided to the Planning Commission members) stating reasons why the demolition is necessary. The HDC reviewed the application and pertinent information and ultimately opposed the demolition permit. Because the HDC opposed the application, the Planning Commission must review it and make a recommendation. The County does not currently have a mechanism in place to stop the demolition. Ms. Baker then introduced Mr. Tom Clemens, Chairman of the HDC.

Mr. Clemens stated that the HDC was not given a specific reason for the demolition. Ultimately, the applicant admitted that the space was needed for parking. Mr. Clemens noted that the applicant would not reveal the plans for the property and the Commission felt it was being asked to make its decision without having all the facts. HDC members asked to sign a NDA (non-disclosure agreement); however, the developer stated that was not within their timeline.

Mr. Clemens stated that the house is very old and was owned and lived in by several prominent families in the County. He expressed his opinion that the barn is in excellent condition and could be used for storage. The developer has expressed interest in selling the salvageable materials from the site. The HDC also suggested subdividing and selling the two structures along with a couple of acres of land for someone to rehabilitate the structures. The developer was not interested in this approach because it did not fit into their plans.

**Discussion and Comments:** Mr. Bowen expressed his opinion that there are numerous farmhouses like this around the County, but there is nothing special about this one. While he is in favor of preserving historic structures, he does not believe that every historic structure needs to be saved.

Mr. Clemens expressed his opinion that many of the structures that are over 100 years old are gone. He noted that one of the largest industries in the County is heritage tourism, which contributes to the economics of our area. Mr. Clemens expressed his belief that there is a finite number of historic structures left in the County and once they are gone, the business will go away as well.

Mr. Kline asked what the zoning is on this property. It is currently zoned HI (Highway Interchange).

Ms. Baker explained that the developer has a multi-million dollar project that is facing some large hurdles to make development work on this particular piece of property. There are extra storm water management regulations that must be met because there will be a large impervious surface and forest conservation requirements that will need to be met.

Mr. Kline expressed his opinion that property owners have the right to do what they want with their property. If the property owner wants to demolish the structures, he should have a right to do that.

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**Motion and Vote:** Mr. Goetz made a motion to grant staff the authority to approve the site plan pending Health Department approval. The motion was seconded by Mr. Bowen and unanimously approved.

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Mr. Clemens stated that the HDC was not given a specific reason for the demolition. Ultimately, the applicant admitted that the space was needed for parking. Mr. Clemens noted that the applicant would not reveal the plans for the property and the Commission felt it was being asked to make its decision without having all the facts. HDC members asked to sign a NDA (non-disclosure agreement); however, the developer stated that was not within their timeline.

Mr. Clemens stated that the house is very old and was owned and lived in by several prominent families in the County. He expressed his opinion that the barn is in excellent condition and could be used for storage. The developer has expressed interest in selling the salvageable materials from the site. The HDC also suggested subdividing and selling the two structures along with a couple of acres of land for someone to rehabilitate the structures. The developer was not interested in this approach because it did not fit into their plans.

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Mr. Kline expressed his opinion that property owners have the right to do what they want with their property. If the property owner wants to demolish the structures, he should have a right to do that.

Members of the Planning Commission expressed their belief that historic resources should be preserved in some instances; however, not every historic structure needs to be preserved. Members also believe that property owners have the right to develop their property in an appropriate and acceptable manner. All members agree that heritage tourism is a large economic boost for Washington County.

**Motion and Vote:** Mr. Kline made a motion to recommend approval of the demolition permit application as presented. The motion was seconded by Mr. Bowen and unanimously approved with Commissioner Wagner abstaining from the vote.

#### **Discussion of Demolition Permit Process**

Ms. Baker introduced Mr. Ralph Young and Ms. Linda Irvin-Craig, co-chairs of the Historical Advisory Commission. She explained that the HDC and the Historical Advisory Commission have been working together to develop some changes to the current Demolition Permit Process. Ms. Baker noted that the County currently has 3,720 individual historic resources. These resources are broken down into five categories, which include: buildings, districts, objects, sites and structures. This does not include all of the contributing resources in the various historic districts. Of the 3,720 historic resources, 342 have a status of demolished, deteriorated or in ruins. Between January 1, 2015 and December 31, 2019, Washington County issued 244 demolition permits; 28 were flagged as having an historic resource somewhere on the property. Twenty of the 28 permits were issued on resources listed in the County's Historic Inventory.

The two commissions are proposing a delay in issuing a building permit when a demolition permit for a historic structure was not properly obtained. Ms. Baker provided a flowchart of the process. The 90-day alternative exploration period would begin immediately after the HDC's review. This period would allow the Commission to discuss alternatives to demolition of the resource. The second proposal is to increase the fines for demolition of historic resources **without** a permit. Currently the fee is \$100; the proposal is to increase the fee to \$1,000. These proposals have been presented to the Board of County Commissioners; however, the Commissioners asked that the Planning Commission review these policies and provide comment.

Mr. Clemens explained that the current fee to obtain a demolition permit is \$50.00; the violation fee is \$100.00. It is believed that more people would follow the process if the fee violation is increased and a one year waiting period for a construction permit is enforced.

**Discussion and Comments:** Mr. Bowen asked if there is currently a process to deny a demolition permit. Ms. Baker stated there is not a process to deny a demolition permit.

Commissioner Wagner asked for clarification of the one-year waiting period. Ms. Baker stated that the permit would only be withheld if an historic structure is demolished on the property without a demolition permit.

Mr. Wiley expressed his concern regarding the alternative exploration period being proposed. He pointed out that the developer is investing in the property and taking all the risks of the investment. Ms. Irvin-Craig noted that the Commissions are trying to find ways to educate property owners/developers in rehabilitation and/or re-use of historic structures. She stated that it takes time to find the resources to help people save historic resources. There are people willing to demolish a structure if they are able to salvage the materials, such as wood beams, windows, etc. but it takes time to discuss these alternatives with the property owners/developers and contact the parties interested in salvaging these types of materials.

There was a brief discussion regarding tax credits that people can get for restoration of historic resources. The Historic Advisory Commission is in the process of developing a brochure explaining the various credits available. The Commission intends to provide this brochure to various organizations around the County, such as realtors, visitor's bureaus, County offices, etc.

Mr. Kline is opposed to both the one-year waiting period for demolition of an historic resource without a permit and the \$1,000 violation fee for demolition without a permit. He gave some examples where there could be unintended consequences for both of these situations.

Planning Commission members would like more time to consider the proposals. It was decided that these proposals should be reconsidered by the HDC and the HAC and new proposals brought back to the Planning Commission at a later date.


-ADJOURNMENT

Mr. Goetz made a motion to adjourn the meeting at 8:45 p.m. The motion was seconded by Mr. Kline and so ordered by the Chairman.

-UPCOMING MEETINGS

1. Monday, March 2, 2020, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, MD 21740

Respectfully submitted,

  
Clint Wiley, Chairman