

WASHINGTON COUNTY PLANNING COMMISSION  
PUBLIC REZONING INFORMATION MEETING  
MAY 18, 2020

Due to current social meeting restrictions put in place by the Governor of Maryland because of the COVID-19 pandemic, the Washington County Planning Commission held a public rezoning information meeting on Monday, May 18, 2020 at 7:00 p.m. virtually using Zoom software. No physical meeting took place.

Commission members present at the meeting were: Clint Wiley, Denny Reeder, Drew Bowen, BJ Goetz, David Kline, Jeremiah Weddle 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. Also present at the meeting were: Thomas Britner, counsel for the applicants; Linda Ebersole, applicant; Sean McDonald, applicant; Julie Greene, Herald Mail reporter; Meghan Jenkins and Jennifer Kinzer, Washington County Department of Planning & Zoning.

**CALL TO ORDER**

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

**REZONING PUBLIC MEETING**

**RZ-20-001 – Jone L. Bowman Residuary Trust and Linda Lou Ebersole Family Irrevocable Trust**

**Staff Presentation**

Mr. Allen presented a map amendment application for property located at 11107, 11111, 11115, and 11119 Hopewell Road totaling 11.64 acres of land. The property is currently zoned HI – Highway Interchange. The applicants are proposing a change in zoning to RT – Residential Transition. All properties are located within the Urban Growth Area that surrounds the City of Hagerstown and the towns of Williamsport and Funkstown.

Mr. Allen noted that during a piecemeal rezoning, the local legislative body is tasked with presenting findings of fact as delineated in Article 27.3 of the Washington County Zoning Ordinance. Criteria must be analyzed, which includes: population change in the election district, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, relationship to the Comprehensive Plan and evidence of a change in the character of the neighborhood since the last comprehensive zoning or a mistake in the zoning applied at that time. Mr. Allen gave a brief overview of each of these criteria as they relate to the subject parcels.

- **Population** – Between 1980 and 2010, the Halfway election district grew more slowly than the County as a whole (1.01% per year).
- **Availability of Public Facilities** – There is currently no public water or public sewer available to the site. In the County's 2009 Water and Sewerage Plan, the site has been given the W-5 designation (Long Term Planned Service). Future public water service would be provided by the City of Hagerstown. The site has been given the S-3 (Programmed Service) designation. Future wastewater service would be provided by the County at the Conococheague Wastewater Treatment Plant.
- **Emergency Services** – The nearest emergency services provider is the Volunteer Fire Company of Halfway.
- **Schools** – These lots would not be subject to the school capacity mitigation requirements of the APFO because the four lot subdivision, created in 2000, should already be accounted for in present school capacity projections.
- **Present and Future Transportation Patterns** – Hopewell Road is classified as a Minor Collector in the Transportation Element of the 2002 Comprehensive Plan. Minor Collector roads are designed to handle between 1,000 to 3,000 average daily traffic counts in rural areas. Traffic volume trends cannot be calculated in this area because there is no data available except for single day traffic counts collected by the County in 2016. Mr. Allen noted that funds have been earmarked in the County's current Capital Improvements Plan for the relocation of Wright Road which is approximately ½ mile south of the site.
- **Public Transportation** – There is no public transit available at this time.
- **Compatibility with Existing and Proposed Development** – There is a mix of zoning classifications in the immediate vicinity of the property. HI surrounds the properties to the south, northeast and southwest near the intersection of I-70 and I-81. Land along Elliott Parkway backs up to the

railroad line and is zoned IG (Industrial General). To the north, across Hopewell Road and to the south below I-81, there is a mixture of residential classifications.

- Land Use - Both single-family and multi-family residential uses are present in the immediate vicinity. The property is bounded by the railroad line to the north and I-81 to the south, where the land use is entirely residential or agricultural.
- Historic Sites – The Maryland Historic Sites Inventory lists three historic resources within a ½ mile radius of the site. Lot 1 contains the Sprechers Mill House, which is an early 19<sup>th</sup> century, 2-story brick dwelling associated with Sprechers Mill (gristmill) formerly located on Semple Run. This structure is listed on the National Historic Register.
- Relationship to the Adopted Comprehensive Plan – The 2002 adopted Comprehensive Plan delineates this site for low-density residential use. This would be compatible with the proposed RT zoning designation.

Mr. Allen reviewed the criteria that should be evaluated for a mistake in the original zoning of the property. These include the following:

1. Failure to take into account projects of trends probable of fruition.
2. Decisions based on erroneous information
3. Facts that later prove to be incorrect
4. Events that have occurred since the current zoning
5. Ignoring facts in evidence at the time of zoning application.

The applicant contends that the Board of County Commissioners erred in its decision during the 2012 UGA Comprehensive Rezoning. The applicant claims that the following items were not fully considered at that time:

1. The existing fact that substantial road improvements would be necessary to make the property suitable for commercial development.
2. The existing fact that public water is unavailable to the property.
3. The assumption that the property would be developed in conjunction with neighboring Parcel 695.

Mr. Allen noted that the County originally intended for these parcels to be zoned RT; however, the property owners formally requested the HI designation. Plat 6462, recorded in 2000, demonstrates the prior intent of the owner to use the property for residential purposes. Many assumptions used by the Board in applying the HI Zoning designation in 2012 have proved incorrect with the passage of time. RT zoning on this property is logical and appropriate for the neighborhood.

#### Applicant's Presentation

Mr. Thomas Britner, 502 Lincoln Drive, Martinsburg, WV 25401, legal counsel for the applicants, was present at the meeting and gave a brief presentation. He reiterated that the County had originally designated these properties with the RT zoning designation and presented Applicant's Exhibit 3 which was a spreadsheet kept by the County during the Comprehensive Rezoning in 2012. This spreadsheet shows the proposed zoning of RT and the applicant's request for HI zoning. He then presented Applicant's Exhibit 4 which was a letter dated July 26, 2011 submitted to the Board of County Commissioners requesting the HI zoning and justification for this request. Three reasons were cited in this letter as justification for the HI zoning classification, as follows:

1. The HI zoning would be consistent with surrounding properties.
2. The property is in close proximity to I-81.
3. The property would be developed in conjunction with Parcel 695.

Mr. Britner believes that the developer did not take into consideration the magnitude of road improvements that would be needed to develop the property for a commercial use. Applicant's Exhibit 5 shows two ways to access the properties; one from Exit 3 off Virginia Avenue and one from Exit 5 from Halfway Boulevard. The preferred access would be from Exit 3; however, the roads from Exit 3 are not designed to handle large truck traffic. He also noted there is a single lane bridge along this route. In 2012 after the comprehensive rezoning, the applicant consulted with a professional engineer to determine what road improvements would be necessary in order to gain commercial access to the site. It has been established that access from Exit 3 is highly unlikely given the cost of the required improvements. Access from Exit 5 would also require a lot of improvements including widening of the roadway and upgrades to the railroad crossing.

Mr. Britner stated that when the zoning was granted, the applicant did not take into consideration that public water and sewer are generally unavailable in this area. Any commercial use of the property would

require public water and sewer. Water would need to come from the City of Hagerstown. This site is located outside of the City's Medium Growth Range Area (MRGA), which would require a special exception to be granted by the City. Mr. Britner does not believe the applicant would qualify for a special exception.

The argument for a mistake in the zoning of the property was the County's assumption that these properties would be developed in conjunction with Parcel 695. However, this has proven to be erroneous with the passage of time despite the best efforts of the applicant to develop the property for a commercial use.

Other factors to consider is the fact that the Ebersole's now wish to convey one of the parcels to an immediate family member. Mr. Britner also pointed out that the H1 zoning classification has created a non-conforming use of the Ebersole's property which is a residential use. In addition, he believes that the proposed RT zoning would be consistent and compatible with the surrounding area.


#### Citizen Comment

There were no citizens present at the meeting. One written comment was received prior to the meeting and it was in favor of the rezoning request.

#### ADJOURNMENT

The Chairman adjourned the meeting at 7:35 p.m.

Respectfully submitted,

  
Clint Wiley, Chairman