

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
May 4, 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 its regular monthly meeting on Monday, May 4, 2020 at 7:00 p.m. virtually using Zoom software. No physical meeting took place.

Planning Commission members present were: Clint Wiley, Drew Bowen, Dennis Reeder, BJ Goetz, Jeremiah Weddle and Ex-officio County Commissioner Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Comprehensive Planner; Chris Boggs, Land Preservation Planner; Meghan Jenkins, GIS Analysis; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; Rebecca Callmer, Chief of Plan Review; and Lisa Kelly, Senior Planner.

Other attendees included: George Nagel, Fox & Associates, Inc.; Kathy Maher, City of Hagerstown; Julie Greene, Herald Mail; and Jim Turner, Antietam Broadband.

**CALL TO ORDER**

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

**MINUTES**

**Motion and Vote:** Mr. Goetz made a motion to approve the minutes of the March 2, 2020 meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved.

**-NEW BUSINESS**

**MODIFICATIONS**

**Herbert and Joyce Nusbaum [OM-20-005]**

Ms. Kelly presented for review and approval a modification request from Sections 405.11.G.1 and 405.11.G.2 of the Washington County Subdivision Ordinance. The applicant is proposing the creation of two lots and is requesting a modification to create Lot 3 with a panhandle length in excess of 400 feet (692 feet) and to permit the stacking of a third lot behind the two existing lots. The applicant is proposing to convey the two new lots to an immediate family member. The property is located along the north side of Toms Road and is currently zoned A-R (Agricultural Rural).

**Motion and Vote:** Mr. Bowen made a motion to approve the modification request as presented. The motion was seconded by Mr. Weddle and unanimously approved with the following members voting in favor of the approval: Mr. Bowen, Mr. Weddle, Mr. Goetz, Mr. Reeder and Commissioner Wagner.

**LAND PRESERVATION**

**Recertification of the Maryland Agricultural Land Preservation Program (MALPP)**

Mr. Boggs gave a brief overview of the MALPP and the importance of being a "Certified County". He noted that "Certified" counties retain 75% of the State Agricultural Transfer Tax as opposed to uncertified counties which retain only 33% of their Ag Transfer Tax. In order to retain certification, a Final Certification Report must be submitted to the Maryland Department of Planning every three years. The report is based on questions developed at the State level to assess the County's Land Preservation Program and compliance with the County's adopted Comprehensive Plan. The County's Agricultural Land Preservation Advisory Board has approved the Final Recertification Report.

**Motion and Vote:** Mr. Reeder made a motion to approve the Recertification as presented. The motion was seconded by Mr. Weddle and unanimously approved with the following members voting in favor of the approval: Mr. Bowen, Mr. Weddle, Mr. Goetz, and Mr. Reeder. Commissioner Wagner abstained from the vote.

## FOREST CONSERVATION

### 17119 Virginia Avenue LLC [FP-20-003]

Mr. Allen presented for review and approval a request to use the payment-in-lieu method to meet forest conservation requirements for property located at 17119 Virginia Avenue. The site consists of 3 parcels totaling 7.61 acres. In 2004, a Forest Stand Delineation and a Forest Conservation Plan were submitted for the Valley Car Wash, which showed 1.77 acres of forest being retained on site to meet mitigation requirements at that time; however, this plan was never recorded. In January 2019, the County was made aware that forest was being cleared without the submission of any grading plans or issued permits. In July 2019, a grading plan was submitted to the County without an appropriate forest conservation plan. Eventually a Forest Stand Delineation was submitted in February 2020. The applicant is now proposing to retain 1.04 acres of forest on site and using the payment-in-lieu fee to meet the rest of the mitigation requirement. The applicant's reason for the payment-in-lieu is not to hinder future development of the site and a problem with vagrancy on the property. Mr. Allen explained that the payment-in-lieu option is the least preferred method of mitigation per the County's Forest Conservation Ordinance, Article 10. The Justification Letter provided by the applicant did not elaborate on why the other techniques in the sequence were not viable for the site. Ms. Baker further explained that the County has had difficulty recently expending the funds collected

**Discussion and Comments:** Mr. Wiley asked how much the payment-in-lieu would be. Mr. Allen stated that the developer would owe a little more than \$14,000. Mr. Wiley expressed his opinion that he would be in favor of the payment-in-lieu because the applicant has always been a responsible landowner and tries to do the right thing.

There was a brief discussion regarding the money that is collected for the payment-in-lieu. Mr. Allen explained that the Soil Conservation District purchases easements on property around the County with the payment-in-lieu funds that are collected. Mr. Bowen asked how much money is currently in the fund. Ms. Baker stated there is approximately \$500,000 in the fund, a majority of which came from a large industrial development. She explained that State legislation increasingly scrutinizes how these funds are spent. She also noted that the payment for easements is very low and people are not willing to tie up their land with an easement. Ms. Baker noted that the vagrancy issue should not be considered when making the decision not to require additional forest on-site. She believes that property owners should address that issue using other available measures.

**Motion and Vote:** Mr. Bowen made a motion to approve the payment-in-lieu. The motion was seconded by Mr. Weddle and unanimously approved with Mr. Bowen, Mr. Weddle, Mr. Reeder and Commissioner Wagner voting in favor; Mr. Goetz abstained from the vote.

## OTHER BUSINESS

### Update of Staff Approvals

Mr. Holloway noted that Commission members received a full written report of all approvals prior to the meeting. During the month of April, 29 plans received staff approval. There were 3 new site plans, 1 storm water management standard plan and 4 standard grading plans submitted for review.

### Changes to the City of Hagerstown's MRGA boundary

Ms. Baker presented proposed changes to the City of Hagerstown's Medium Growth Range Area (MRGA) boundary that have been discussed with staff from the City of Hagerstown. These changes are proposed because numerous residents in the Urban Growth Area have not been able to get permits for wells from the Washington County Health Department or public water service from the City of Hagerstown. Staff has been analyzing the MRGA boundary that is part of the City's adopted Comprehensive Plan which delineates areas that the City of Hagerstown has determined, based upon their growth projections for both residential and non-residential growth, are the limits where they can reasonably serve water and sewer capacities.

Ms. Baker presented a map showing areas in green along the north and west side of the Growth Area where staff is seeking to expand the boundary (approximately 2,300 acres). Areas shown in red along the east and southeast boundaries (approximately 640 acres) are proposed to be removed from the MRGA. Many areas shown in the green are already included in the growth area and are currently served with public water. These were included because they are located within industrial areas.

The following areas are proposed for inclusion in the MRGA:

- Area A consists of an industrial park situated with I-70 to the south and MD Route 63 to the east. This park is mostly developed; however, there are a few parcels that are not developed or under-developed. Area A is proposed to be included in the MRGA boundary because it is in a Special Enterprise Zone, which has special tax credits for development.
- Area B includes the area surrounded by I-81 on the west, Showalter Road on the south, US Route 11 on the east and State Line on the north.
  - Area B1 includes Citicorp, new parcels for development and a few small retail services. CHIEF owns and is currently marketing several of these parcels of land.
  - Area B2 is adjacent on the east side of Route 11 and includes Goodwill and AC&T (Fulton) properties.
  - Area B3 is property owned by the County (formerly part of the Brumbaugh-Kendle-Grove Farmstead) and the Pennington mobile home park.
  - Area B4 is the Airport proper and includes the former Fairchild property and Bowman's property.
  - Area B5 includes Phoenix Color and a few smaller parcels.
- Area C is in the vicinity of Huyetts Crossroads along the National Pike and the south side of MD Route 63. This property was recently rezoned by Heritage Huyett LLC and the developer is currently seeking permits for development. A pre-annexation agreement has been signed with the City of Hagerstown.
- Area D
  - Area D1 is along the south side of I-70 along Greencastle Pike and includes FedEx and smaller surrounding properties.
  - Area D2 is along Elliott Parkway.
  - Area D3 is Taylor Farms. The County has been working with this developer on a re-alignment of Wright Road. The developer is proposing a warehouse on this property.
- Area E is along the Greencastle Pike and is an extension of the Bowman property consisting of 23.18 acres. A portion of the parcel is already in the MRGA.
- Area F is along the Cearfoss Pike with MD Route 58 on the south side. It includes Grace Academy, the Hagerstown Soccer Club and Hoffman Group properties which are all currently zoned for commercial uses. This is an area of interest because of the Maugansville Pump Station project that the county is currently working on to reallocate wastewater.
- Area G is along the east side of Greencastle Pike and is part of Hopewell Valley North. This consists of large lots seeking water and sewer services.

Ms. Baker then discussed areas to be removed from the MRGA, as follows:

- Area 1 includes acreage recently annexed into the Town of Funkstown. Because of this annexation, all of the equivalent dwelling units (EDUs) are available to the City of Hagerstown (approximately 400 EDUs). No decision has been made what to do with these EDUs.
- Area 2 is located along the north side of I-70, adjacent to the Town of Funkstown. These parcels are currently zoned RU (Residential Urban).
- Area 3 is in the southeast portion of Hagerstown toward the Dual Highway/Route 40/I-70 interchange. These parcels were moved into the MRGA during the boom; however, no development has taken place. There is currently no water or sewer facilities in this area.
- Area 4 is located off Landis Road behind the golf course and adjacent to the City of Hagerstown. There is little chance for development in this area due to road adequacy issues. The parcel on the north side is owned by the County and is part of the golf course property.
- Area 5 is east of Hagerstown in the Fiddlersburg/Security Road vicinity. The property is currently zoned residential and is adjacent to the existing cement company. No high density residential development is expected in this area.
- Area 6 is located along the north side of Jefferson Boulevard adjacent to the existing cement company outside of the existing water and sewer service area.
- Area 7 is to the north of Hagerstown and includes the Glen Erin subdivision. Given environmental issues with streams and floodplains, no additional growth is expected in this area.

Ms. Baker introduced Ms. Kathy Maher from the City of Hagerstown. Ms. Maher noted that this effort was initiated due to a request by the City Council to determine how much capacity and allocation was available and what the City could reasonably handle in the future. An amendment to the City's adopted Comprehensive Plan will be needed after the MRGA boundary has been established.

**Consensus:** It is the consensus of the Planning Commission to accept the proposed changes so the City Planning Department can move forward with an amendment to its MRGA boundary. The following

members voted in favor of the consensus: Mr. Weddle, Mr. Reeder, Mr. Bowen, Mr. Goetz and Commissioner Wagner.

#### CIP Recommendation

Ms. Baker presented for review the draft Capital Improvements Plan for the County, which provides funding and scheduling of projects throughout the County according to prioritized needs and available revenue. Focus was given to the FY 2021 budget proposal and its consistency with the County's adopted Comprehensive Plan. The budget for FY 2020-2029 was \$56.3 million; the proposed budget for FY 2021-2030 is \$54.8 million. Ms. Baker noted that operating and capital budgets have been drastically cut due to the COVID-19 pandemic and its effects on the economy.

Ms. Baker gave a brief overview of proposed projects included in the CIP, as follows:

- Airport – Several upgrade projects are proposed and will be fully funded using Federal monies.
- Bridges - Cleaning and painting of steel bridges will be deferred to other years.
- Education - Three new school projects have been included to match the Board of Education's projected budget for school construction. No money will be fronted this year; funds have been earmarked for out years.
- Hagerstown Community College has requested several projects including the widening of the entrance at Yale Drive. There will be no funding this year.
- Parks and Recreation - funding is received through the State's Project Open Space Program. Projects have been added based on fiscal year funding for the Antietam Creek Water Trail, Black Rock Golf Course simulator, and drinking fountain upgrades. Other projects proposed in the out years are the Marty Snook Park swimming pool and ballfields, MLK Gymnasium upgrade, and Regional Park hiking trails and dog park.
- Public Safety – maintenance and upgrading projects have been pushed to the out years.
- Roads - improvements are proposed for Antietam Drive at Eastern Boulevard and have been moved to the out years. A salt storage structure is proposed
- Solid Waste - projects have been moved to the out years.
- Water Quality – proposed improvements at the Cascade Towne Center are needed due to aging water infrastructure.

**Consensus:** It is the consensus of the Planning Commission that the proposed budget is consistent with the County's adopted Comprehensive Plan. The following members voted in favor of the consensus: Mr. Weddle, Mr. Reeder, Mr. Bowen, and Mr. Goetz.

#### Director's Comments

Ms. Baker informed members of a recent court opinion from the Court of Special Appeals regarding the Bowman Cornfield site plan, which was reviewed and approved by the Planning Commission in 2017. The approval of the site plan was challenged by a group of neighbors who contended that the County erred in its definition of a mixed-use retail area. The neighbors believed that the proposed use was a truck stop which is not a permitted use in the zoning district in which the property is located. The BZA upheld the approval of the site plan which was then forwarded to the Court of Special Appeals who overturned the BZA's decision.

#### UPCOMING MEETINGS

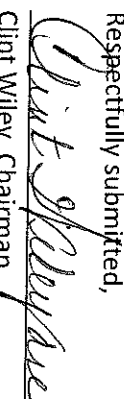
Monday, May 18, 2020, 7:00 p.m. – Washington County Planning Commission Rezoning Public Meeting (this will be a virtual only meeting)

Monday, June 2, 2020, 7:00 p.m. – Washington County Planning Commission regular meeting

#### ADJOURNMENT

Mr. Weddle made a motion to adjourn the meeting at 8:25 p.m. The motion was seconded by Mr. Reeder and so ordered by the Chairman.

Respectfully submitted,

  
Clint Wiley, Chairman