

WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
September 8, 2025

The Washington County Planning Commission held its regular monthly meeting on Monday, September 8 2025 at 6:00 p.m. at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

CALL TO ORDER AND ROLL CALL

The Vice-Chairman called meeting to order at 6:00 p.m.

Planning Commission members present were: Jeff Semler, Vice-Chairman, Denny Reeder, Jay Miller, BJ Goetz, and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Misty Wagner-Grillo, Planner; and Debra Eckard, Office Manager.

NEW BUSINESS

ORDINANCE MODIFICATIONS

Alan F. Yost [OM-25-009]

Ms. Wagner-Grillo presented a proposed ordinance modification request from Section 318.1.A of the Subdivision Ordinance. The subject site is located along the south side of US Route 40, west of Orebank Road and is currently zoned EC (Environmental Conservation). The applicant wants to create a 10-acre lot for recreational or agricultural use. This would be a stand-alone simplified parcel not for development.

Motion and Vote: Mr. Goetz made a motion to approve the ordinance modification request as presented. The motion was seconded by Mr. Reeder and unanimously approved.

Dinah Young [OM-25-011]

Ms. Wagner-Grillo presented a proposed ordinance modification request from Section 16.A.5 of the Zoning Ordinance. The property is located at 1232 Hunters Woods Drive and is currently zoned RS/PUD (Residential Suburban with the Planned Unit Development overlay). The applicant is requesting a reduction in the rear yard setback from the required 20-feet to 7.44-feet. The property behind the site is designated open space.

Motion and Vote: Mr. Reeder made a motion to approve the ordinance modification request as presented. The motion was seconded by Mr. Goetz and unanimously approved.

Jeannie Thompson [OM-25-010]

Ms. Wagner-Grillo presented a proposed ordinance modification request from Section 16.A.5 of the Zoning Ordinance. The property is located at 1231 Hunters Woods Drive and is currently zoned RS/PUD (Residential Suburban with the Planned Unit Development overlay). The applicant is requesting a reduction in the rear yard setback from the required 20-feet to 7.90-feet. The property behind the site is a designated storm water management area.

Motion and Vote: Mr. Miller made a motion to approve the ordinance modification request as presented. The motion was seconded by Mr. Reeder and unanimously approved.

OTHER BUSINESS

Proposed Text Amendment [RZ-25-007]

Ms. Shingleton introduced a proposed text amendment to address low intensity fowl operations that include raising or providing care for 24 or less domestic fowl raised for eggs or meat consumption. No roosters or guinea fowl would be permitted. Limitations would include the following: the first ½ acre or less a maximum of six fowl would be allowed; an additional six fowl would be permitted for each ½ acre up to a total of 24 fowl. More than 24 fowl will be considered a high-intensity operation and must meet all standards and regulations set forth by the Animal Husbandry Ordinance. Structures for a low-intensity operation must be set back a minimum of 25 feet from any neighboring dwelling, school, church or institution for human care and at no time shall a structure be located

closer than 10 feet from any side or rear property lines. Structures shall not be permitted in front yards, drainage swales or mapped floodplain areas. A zoning certificate will be required for all fowl operations. Free range fowls will not be permitted; all structures and roaming areas must be fenced. Structures must be properly constructed, maintained and cleaned on a regular basis to prevent odors and waste from building up. Feed must be stored in contained areas and must be cleaned regularly to prevent scavengers, insects and parasites that may harm humans. Manure may be composted and added to gardens or yards if done so without creating malicious smells or other hazards. Waste that is not composted must be collected in a sealed dry container and must be stored at a minimum of 10 feet from all property lines. A Waste Management Plan and Nutrient Management Plan will only be required when housing more than 24 fowl. Outdoor slaughtering or butchering is prohibited. A zoning permit will be required for any structures housing chickens. A proof of registration from the State will be required for fowl operations.

Discussion and Comments: There was a brief discussion regarding the slaughtering of chickens. Ms. Baker explained that sometimes it's a cultural belief. She stated that we have had complaints from neighbors that this is unsanitary and could be a health hazard.

Mr. Semler asked if peacocks should be included in this amendment. Ms. Baker stated that peacocks were not included because they are not raised for eggs or meat.

Proposed Text Amendment [RZ-25-009]

Ms. Baker introduced a proposed text amendment to address junk and junk vehicles, as a nuisance, on private property. She noted that Ms. Shingleton has completed extensive research on this subject throughout the state and country. Currently in our Zoning Ordinance, we have a definition for junk and junk vehicles and salvage yards but there are no zoning districts that allow a salvage yard. Junk yards are considered non-conforming uses and are only permitted as a special exception in the Industrial General zoning district. Ms. Baker explained that currently there is no language in the Zoning Ordinance that explicitly prohibits junk and the County Attorney's office is having a difficult time taking these complaints to court and having a judge rule in our favor. Therefore, we are creating a new division under Article 22 of the Zoning Ordinance. There will be explicit language stating, it will be "unlawful and a violation of the landowner of any premises to keep or accumulate junk or junk vehicles, etc."

Ms. Baker discussed instances when a vehicle may not be considered junk. A section for exemptions will be included in the proposed text. She briefly reviewed the exemptions which include language regarding farm vehicles. Ms. Baker discussed the processing of zoning violations and enforcement.

Update of Projects Initialized

Ms. Kinzer provided a written report for land development plan review projects initialized during the month of July including six forest stand delineations and two preliminary/final plats.

OLD BUSINESS

Black Rock PUD Remand

Ms. Baker began the discussion by explaining that the Board of Zoning Appeals must review and consider the Planning Commission's findings regarding specific questions posed by the Circuit Court in order to make a reasonable decision if the proposed changes were major or minor changes.

For the record, Ms. Baker corrected a statement in her staff report stating that the County would initiate a rezoning to remove the PUD overlay. The County Attorney has clarified that the County will not initialize a rezoning on an individual property; removal of the overlay would be the responsibility of the property owner.

The Planning Commission reiterated its decision from the August 4th meeting that the PUD zoning is invalid based upon the developer failing to meet deadlines outlined in Section 16.A.6.e of the Zoning Ordinance.

Question #3: Was there a violation of Section 24.4.b of the Zoning Ordinance as it pertains to the amount of time required between applications and when denial occurs? Staff's opinion on Question #3 is that the Planning Commission did not violate Section 24.4.b of the Zoning Ordinance because no formal application was made. When the changes in question were proposed, the developer was only seeking the advice of the Planning Commission. There were no formal applications submitted,

no fees paid, no review by staff, no outside agency review, and no approvals or denials were given; therefore, no timeline was started.

The Planning Commission reiterated its decision from the August 4th meeting supporting Staff's analysis that no formal applications were made; therefore, no timeline was started because no approvals or denials were given.

Question #4: Are the proposed changes, in fact, minor as determined by the Planning Commission and affirmed by the BZA? Ms. Baker explained there were several points of consideration under this question. She believes that collectively, this is a major change. The Planning Commission then reviewed each point of consideration individually.

- 1) Reduction in water and sewage usage from 300 gallons per day to 200 gallons per day. Staff believes this is an inaccurate and null argument. The Planning Commission concurred based on the analysis provided in the staff report.
- 2) Reduction of the storm water management areas. Staff pointed out that storm water management regulations have changed considerably over the past 20 years; therefore, this is not a major change. The Planning Commission concurred.
- 3) The 50% reduction in the space for amenities: Staff explained that the Court considered the 2002 development plan but did not consider the updated plan from 2022. Again, the Commission does not believe this constitutes a major change.
- 4) Increase in the height of the townhouses and apartments: Staff believes there is some validity to the argument that this is a major change for the condos and apartments. The proposed change could give these units another full-story in building height. This difference could affect the appearance of the neighborhood as a whole.

Comments: Mr. Miller expressed his opinion that topography, the design of the dwelling units as well as the pitch of the roof would affect the height of a building. He does not believe enough information was provided on the development plan to make a reasonable decision on this issue. Members concurred with Mr. Miller.

- 5) Implementation of the development plan: Ms. Baker noted that Section 16.A.4.j of the Zoning Ordinance states, "each phase of the development must conform to the same density as the overall development". Based upon the information provided, this plan appears to be in violation of Section 16.A.4.j of the Ordinance. Members agreed there is a violation and this should be considered a major change.
Ms. Baker believes that the judge considered that if one part of the change is determined to be a major change, then the development plan in its entirety should be considered a major change.
- 6) Should the adequacy or lack of adequacy of public facilities/infrastructure be considered including adequacy of schools, water (generally), water for fire suppression, sewers, roads, and emergency services.

Comments: Mr. Goetz expressed his opinion that the water issue was addressed by the proposal to construct a water tower. School adequacy would be addressed with a contribution by the developer or when the school reaches 120% of State-rated capacity. When schools meet the 120% State-rated capacity, the Board of Education as well as the County Commissioners would step in to resolve the issue. Therefore, this does not constitute a major change in his opinion because this is not controlled by the Planning Commission.

Ms. Baker noted that in the State of Maryland, a developer/property owner may proceed with development planning at his own risk; however, until the final plat is recorded, there are no vested rights to build on the property. Ms. Baker believes that the applicant addressed the water issue and the road impacts because the number of dwelling units was reduced.

Mr. Goetz believes that the phasing of the development will be driven by the housing market. Ms. Baker agreed that the developer cannot be held to a specific time schedule due to economics of the situation.

- 7) The Court argued that this was a major change because the condominiums and townhomes were originally planned as a gated community. The new plan does not show

a gated community. The Court also argued that the condominiums were changed to multi-family dwelling units; therefore, this would constitute a major change.

Discussion and Comments: Mr. Miller expressed his opinion that after reviewing and discussing each item individually, he still believes that the majority of proposed changes were minor and therefore, the overall change should be considered a minor change.

Mr. Goetz expressed his opinion that the first comment to the Board of Zoning Appeals should be that the Planning Commission has determined that the PUD zoning is invalid. Afterward, based on further review, consideration and discussion of each question from the Court, each one should be listed separately with the Planning Commission's decision on each, and finally state that based on these determinations collectively, the Planning Commission believes the proposed change was minor.

There was a brief discussion regarding the developer's violation of the Zoning Ordinance as it pertains to the density requirements found in Section 16.A.4.j. Ms. Baker noted that if the proposed plan had been approved, an appeal could have been filed with the Board of Zoning Appeals. She stated that any decision made by the Planning Commission can be appealed to the BZA within 30 days. Ms. Baker stated that the 2022 approved development plan indicates the following densities within each phase: Phase I – 183 dwelling units; Phase II – 302 dwelling units; for a combined total of 485 units or 5.5 dwelling units per acre; with an overall cumulative total of 2.7 dwelling units per acre. Mr. Goetz made an inquiry as to which plans should be compared. He believes that members and staff should be comparing the 2020 and 2022 approved plans; not the 2022 and 2002 approved plans. Decisions should be made on the most recent approved plan, not the original development plan. The 2020 development plan indicates the following densities within each phase: Phases 1A and 1B – 1.5 dwelling units per acre, Phase II – 5.0 dwelling units per acre and Phase III - 4.2 dwelling units per acre; the overall cumulative total was 2.7 dwelling units per acre. Therefore, the 2020 and 2022 overall combined total densities in the approved development plans are the same based on these figures. Mr. Miller expressed his opinion that the Zoning Ordinance wants each phase, not the cumulative total density, to be comparable. Ms. Baker agreed with Mr. Miller's assessment.

Consensus: The Planning Commission concurred that the 2022 approved development plan should be compared to the 2020 approved development plan, not the 2002 approved development plan.

Motion and Vote: Mr. Miller made a motion that the Planning Commission recommends the following to the Board of Zoning Appeals based upon extensive review and analysis and for reasons stated within the staff report:

- 1) The PUD zoning is invalid based upon the developer failing to meet deadlines outlined in Section 16.A.6.e of the Zoning Ordinance.
- 2) There is no violation of Section 24.4.b of the Zoning Ordinance because no formal applications were made; therefore, no timeline was started because no approvals or denials were given.
- 3) The changes proposed do not rise to the level of a major change.

The motion was seconded by Mr. Reeder and unanimously approved with Commissioner Wagner abstaining from the vote.

ADJOURNMENT

Mr. Goetz made a motion to adjourn the meeting at 7:45 p.m. The motion was seconded by Mr. Reeder and so ordered by the Vice-Chairman.

UPCOMING MEETINGS

1. October 6, 2025, 6:00 p.m. – Washington County Planning Commission public rezoning input meeting and regular meeting

Respectfully submitted,



Jeff Semler, Vice-Chairman