

**WASHINGTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**April 1, 2019**

The Washington County Planning Commission held its regular monthly meeting on Monday, April 1, 2019 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, Andrew Bowen, Denny Reeder, Robert Goetz, Jr., David Kline and Ex-Officio Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Stephen Goodrich, Director; Jill Baker, Deputy Director; Travis Allen, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; Cody Shaw, Chief of Plan Review; and Lisa Kelly, Senior Planner.

**CALL TO ORDER**

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

**PUBLIC INFORMATION MEETING**

**RZ-19-001 – Text Amendment – Alcohol Manufacturing Facilities**

**Staff Presentation**

Ms. Baker presented a text amendment application to amend several sections of the Washington County Zoning Ordinance to address uses associated with alcohol manufacturing facilities. Recent State legislation has expanded the types of manufacturing licenses for alcohol manufacturing which includes: limited commercial wineries, limited commercial breweries [micro-breweries], pub-breweries and limited commercial distilleries. The proposed amendments seek to incorporate these new license types into the local Ordinance to help support and grow the local economic development opportunities in the County. Included in the proposed amendments:

- Adding definitions for limited commercial breweries [micro-breweries] and pub-breweries;
- inclusion of limited commercial breweries and pub-breweries as a special exception use in the BL (Business Local) district; as a permitted use in the BG (Business General) (thereby also permitted in the Planned Business (PB) and Highway Interchange (HI) zoning districts) and Rural Business (RB) districts;
- Deletion of commercial breweries as a special exception in the AR (Agricultural, Rural), EC (Environmental Conservation), P (Preservation) and RV (Rural Village) districts and replacing it with inclusion of limited commercial breweries as a special exception use in these zoning districts;
- Deletion of commercial breweries as a permitted use in the RB district and replace with limited commercial breweries as a permitted use in the RB district

The State also added a new manufacturing license for distillery operations. The proposed text amendment includes:

- Adding a new definition for the limited commercial distillery;
- Adding a new definition of commercial distillery to better clarify the difference between uses;
- Adding a new definition for farm distillery;
- Inclusion of limited commercial distilleries as a special exception use in the BL district; as a permitted use in the BG (thereby also permitted in the PB and HI districts) and RB districts; and as a special exception use in the AR, EC, P and RV districts;
- Inclusion of farm distillery as a permitted use in the A(R), EC, P and RV districts.

The State has approved manufacturing licenses for winery operations since the County amended its ordinance in 2012. The proposed amendments include the following:

- Adding a new definition for a limited commercial distillery
- Adding a new definition of commercial distillery to clarify the difference between uses;
- Deleting commercial wineries as a special exception use in the AR, EC, P and RV districts and replacing it with limited commercial wineries as a special exception use in the AR, EC, P and RV districts
- Deleting commercial wineries as a permitted use in the RB district and replacing it with limited commercial wineries as a permitted use in the RB district;
- Inclusion of limited commercial wineries as a special exception use in the BL district; as a permitted use in BG (thereby also permitted in the PB and HI districts) districts

### Citizen Comments

- Jason Divelbiss, 11125 Bemisderfer Road, Greencastle, PA 17225 – Mr. Divelbiss expressed his opinion that the use of the word “manufacturing” eludes to a larger scale operation. He believes that the term “alcohol production facility” is a more universal term and more appropriate for the scale of most of the operations in the County. Mr. Divelbiss expressed his opinion that the regulations should be the same for all alcoholic production facilities. He suggested regulating the facilities in two ways: 1) as alcohol production facilities in general, or 2) as a farm-based alcohol production facility with one unified definition for both facilities regardless of the beverage generated. His definition of the alcohol production facility is “a production facility that manufactures an alcoholic beverage pursuant to a State issued manufacturing license” and the farm based alcohol production facility could be defined as “an alcohol production facility located on a parcel of land that has an agricultural use assessment”. Mr. Divelbiss noted there is a specific requirement in the farm based facilities that a minimum of two acres of ag product be produced on the land to be used in the manufacturing process. He believes this could limit the facility due to one of the following issues: the State regulations change; the facility outgrows the agricultural production capacity of the land upon which it is located or seasonal or unexpected damage to the agricultural products. This requirement would ignore the potential cost-effectiveness of purchasing the raw materials to use in the manufacturing process. He believes there is a real risk in trying to regulate these facilities within the zoning context and having it be inconsistent with how the uses are regulated at the State licensing level. Mr. Divelbiss believes these facilities could be a real economic benefit to the County and that they should be allowed wherever appropriate. He believes these facilities should be a permitted use in the IR district and allowed by special exception in residential districts. He also believes they could be accessory components for restaurants, taverns, liquor stores or other food type establishments.

**Discussion:** Mr. Reeder asked how much alcohol can be produced before it is considered a commercial facility. Ms. Baker stated that the State regulates these issues through its manufacturing licenses. She briefly discussed ways the County is trying to link its regulations with those of the State.

Mr. Bowen expressed his opinion that the Commission should focus on where the proposed facilities would be appropriate and not so much on the manufacturing issues. Mr. Goetz concurred with this comment.

There was a brief discussion regarding the 2-acre minimum requirement for growing the ag product on the land to be used in the manufacturing process. Ms. Baker explained that this requirement was discussed with winery owners, farm winery associations, the County's ag support specialist, and staff from the County's Business Development department when amendments for farm wineries were adopted in 2012. This requirement shows a commitment by farm owners that they intend to be a farm-based business and not a commercial business.

### RZ-19-002 – Text Amendment – Mineral Extraction

Mr. Allen presented a text amendment application to amend several sections of the Washington County Zoning Ordinance pertaining to the regulation of mineral extraction activities. The proposed language was unintentionally omitted in prior text amendments particularly after the 2005 rural area rezoning. The proposed amendments do not promote an expansion of this type of land use across the County. Prior to the 2005 Rural Area rezoning, there were three classifications for mineral extraction:

- Low Volume Operations – defined as an operation that the land area disturbed is less than one acre
- Moderate Volume Operation – defined as an operation between one and five acres and can include mineral processing facilities
- High Volume Operation – defined as an operation greater than five acres and where an Industrial Mineral overlay is required to engage in that type of land use.

Proposed amendments include:

- Inclusion of the three classifications in the Table of Land Use Regulations (Article 3.3) and in the corresponding zoning districts where they are allowed
- The definitions for each classification would be updated as proposed in Article 4.14
- Low volume mineral extraction would be added to the A(R), EC, P, RB and IM districts in the Table of Land Uses for the Rural Area. It would also be added as a principal permitted use in the BL, BG, IR, IG, ORT, ORI and ERT zoning districts. A grading plan would be required showing the existing and proposed surface contours and provide for the property's revegetation.
- Moderate volume mineral operations would be added as a special exception in the Table of Land Uses for the A(R), EC, P and IG districts. Moderate volume mineral extraction is already allowed

as a special exception in the IG District, but the text would be replaced as proposed. A grading plan meeting the same requirements as those for low volume operations will be required for approval. Moderate volume operations are also subject to the requirements of Sections 15.4, 15.5 and 25.6 of the Zoning Ordinance.

- High volume operations will continue to be permitted only with the application of the IM overlay. New IM districts cannot be established within the adopted urban growth area, town growth areas or rural villages.
- All volume classifications will be subject to the performance standards in Section 4.12.

The public information meeting concluded at 7:45 p.m.

#### **-NEW BUSINESS**

#### **MINUTES**

**Motion and Vote:** Mr. Bowen made a motion to approve the minutes of the March 4, 2019 meeting as presented. The motion was seconded by Mr. Kline and unanimously approved.

#### **SUBDIVISIONS**

##### **Cascade Community Center – Lot 1 [S-19-006]**

Mr. Shaw presented for review and approval a preliminary/final plat for Lot 1 of the Cascade Community Center located at 14421 Lake Royer Drive. The property is 3.77 acres and is currently zoned SED (Special Economic Development). At the February 4, 2019 meeting, the Planning Commission approved a modification request to create a lot without public road frontage. The property contains the existing community center. The purpose of this plat is to create a standalone parcel for the property.

**Motion and Vote:** Mr. Reeder made a motion to grant staff the authority to approve the preliminary/final plat after all agency approvals have been received. The motion was seconded by Mr. Goetz and unanimously approved.

#### **SITE PLANS**

##### **Taco Bell [SP-18-024]**

Ms. Kelly presented for review and approval a site plan for Taco Bell to be located along the east side of Sharpburg Pike. The property is currently zoned HI (Highway Interchange). The developer is proposing to construct a 2,430 square foot restaurant with drive-thru. One access will connect the site from an interior street built by the land developer. A right-in only from the Sharpburg Pike will aid customers in accessing the site. The site will be served by public water and public sewer. Hours of operation will be 7:00 a.m. to 2:00 a.m., 7 days per week. There will be an average of 6-7 employees per shift. There will be two deliveries per week when the restaurant is closed. Required parking is 32 spaces; 44 spaces will be provided. There will be a pylon sign located adjacent to Sharpburg Pike and building mounted signs. Lighting will be pole and building mounted. Landscaping will include a variety of trees, shrubs and ground cover which will be in the front and rear of the building, throughout the parking lot and around the perimeter of the parking and drive-thru areas. Forest Conservation Ordinance requirements were addressed when the preliminary plat for the Shops at Sharpburg Pike was approved; a payment-in-lieu was paid in the amount of \$94,163.11. Approvals are pending from the City of Hagerstown Water Department and the Health Department. All other agency approvals have been received.

**Motion and Vote:** Mr. Goetz made a motion to grant staff the authority to approve the site plan pending receipt of all agency approvals. The motion was seconded by Mr. Kline and unanimously approved.

##### **Mennonite School [SP-19-006]**

Ms. Kelly presented for review and approval a site plan for a proposed private school to be located at 17003 Sakech Lane. The property is currently zoned A(R) – Agricultural Rural. The owners are proposing to construct a 20,428 square foot school on a 15 acre parcel. The proposed building height is 20 feet. This will be a private school for grades K-12 with a maximum capacity of 150 students. The new school will replace the existing school currently located at Huyetts Crossroads. One access will be off of the Cearfoss Pike. A decel lane is proposed for the north side of the access. Public water and individual septic will serve the school. Hours of operation will be Monday through Friday, 7:00 a.m. to 5:00 p.m. There will be 10 employees. Required parking is 30 spaces and 70 spaces will be provided. There will be one delivery per week. Lighting will be building mounted and pole mounted throughout the parking lot. A proposed loading

zone will be located in front of the school. This will provide an area for both fire trucks and access for cars, if needed. Signage will be building mounted. Landscaping will be provided around the school, in the parking lot and in the bio-retention pond. Forestation requirements will be met by retaining existing forest off-site on lands of Andrew Michael. The Planning Commission reviewed the plans for a Forest Bank for Mr. Michael at its March 4<sup>th</sup> meeting.

**Motion and Vote:** Mr. Bowen made a motion to allow Forest Conservation requirements to be met using the Forest Bank for Andrew Michael, pending approval of the forest bank by the Board of County Commissioners. The motion was seconded by Mr. Reeder and unanimously approved with Commissioner Wagner abstaining from the vote.

**Motion and Vote:** Mr. Bowen made a motion to grant staff the authority to approve the site plan pending all agency approvals and approval of the forest bank for Andrew Michael. The motion was seconded by Mr. Kline and unanimously approved with Commissioner Wagner abstaining from the vote.

#### FOREST CONSERVATION

##### Sam and Cassandra Billotti [FP-19-006; S-18-038]

Mr. Allen presented for review and approval a request to utilize off-site retention to meet remaining forest conservation requirements for a proposed three lot family subdivision located at 14515 Round House Farm Lane. The property is currently zoned A(R) – Agricultural Rural. The off-site retention would be at Kirk Woods Park in Hancock. Off-site retention if one of the least preferred options for forest mitigation and requires the developer to do 2:1 mitigation to satisfy the acreage requirements. A justification letter was submitted by the applicant.

**Motion and Vote:** Mr. Kline made a motion to approve the request for off-site retention to meet forest conservation requirements for Sam and Cassandra Billotti. The motion was second by Mr. Reeder and unanimously approved.

#### OTHER BUSINESS

##### Rosewood Commons Shared Parking Request

Mr. Shaw presented a shared parking request for Rosewood Commons within the Rosewood Village PUD. Rosewood Commons was approved as part of the Rosewood Phase II/A project and was described as “retail and office space” with minimum requirements for parking based on retail uses at 5.5 spaces per 1,000 square feet of gross floor area (122 required parking spaces) with 125 spaces provided including 5 handicapped spaces. Over the years, the occupancy has changed from mainly retail to food service establishments. Currently there are 7 restaurants, 2 retail businesses, both of which occupy two tenant spaces, and 5 vacant units. According to the applicant, there is 11,102 square feet of restaurant space which requires 1 space per 75 square feet of gross floor area which equates to 148 parking spaces. This well exceeds the number of spaces currently existing at the shopping center. Until the parking issue has been resolved, the applicant has been advised that no new building permit applications or zoning certifications will be processed.

The current food service establishments need 148 parking spaces and the retail needs 77 parking spaces for a total of 225 parking spaces. There are currently 125 parking spaces; leaving 100 spaces needed. The applicant provided a sketch showing the proposed shared parking spaces that would be utilized by the employees throughout the Rosewood PUD. The applicant noted that the restaurants have varying hours of operation and are not all open at the same time.

**Discussion and Comments:** It was noted that the proposed shared parking areas would be located in some of the residential lots; however, according to the applicant this will not affect the parking of residents. Commission members expressed many concerns including the following: 1) would residents have enough parking; 2) safety of employees walking from the parking areas to work; 3) parking for the next tenant that wants to lease space in the Commons; 4) negative effects on the current businesses; 5) negative effect on the property owner because available space is sitting empty.

Planning Commission members tabled this discussion until additional information can be obtained from the owner including: how does this impact the remainder of the PUD; the size of existing businesses and evaluation of operating hours; and will the vacant spaces be leased to more food services or retail business and how will the future parking problem be solved. Members were encouraged to drive by the areas at different times throughout the day.

**Update of Staff Approvals**

Mr. Holloway presented the following update for March: Land Development - 4 standard grading plans; 4 site plans, 4 forest stand delineations, 2 road adequacy plans, 6 storm water concept plans, 1 traffic study, 1 preliminary consultation, 1 preliminary/final plat, and 2 red-line revisions; Permits – 15 grading permits, 13 utility permits, 12 entrance permits and 2 non-residential new construction permits.

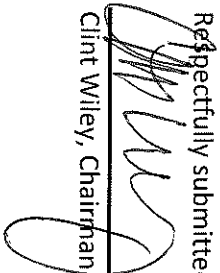
**-ADJOURNMENT**

Mr. Bowen made a motion to adjourn the meeting at 8:30 p.m. The motion was seconded by Mr. Kline and so ordered by the Chairman.

**-UPCOMING MEETINGS**

1. Monday, May 6, 2019, 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