

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
February 7, 2022**

Due to in-person meeting restrictions related to the COVID pandemic, the Washington County Planning Commission held its regular monthly meeting on Monday, February 7, 2022 at 7:00 p.m. virtually using Zoom software. No physical meeting took place.

Planning Commission members present were: Clint Wiley, Chairman, David Kline, Denny Reeder, Jeremiah Weddle, Robert Goetz, Jeff Semler, 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; Lisa Kelly, Senior Planner; Scott Stotelmyer, Planner; Meghan Jenkins, GIS Coordinator; and Debra Eckard, Administrative Assistant.

Also present at the meeting were: Adam Hager, David Trostle, Ed Schreiber, and Trevor Frederick of Frederick, Seibert & Associates; Gordon Poffenberger, Fox & Associates; William Wantz, Justin Goodman, Mike Nalepa, Meir Neuberger, Rubin Moshe, Thomas Palumbo, and Joshua Sewald [RZ-21-007]; Zachary Kieffer [RZ-21-005]; Jimmy Rowland [SP-21-036]; Bob Franks [SP-21-031]; Matthew Powell, William Erskine and Todd Heck [Black Rock PUD].

CALL TO ORDER

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

REZONING PUBLIC INFORMATION MEETING

RZ-21-005 – Sharpsburg Pike Holdings LLC

Staff Presentation

Mr. Allen reminded members that the Board of County Commissioners held a public hearing in November for the rezoning of 9.92 acres of property located at 10319 Sharpsburg Pike. The applicant is requesting a change in zoning from HI (Highway Interchange) to MXC (Mixed Use Residential and Commercial). During the public hearing, the applicant presented a new plan to address school capacity issues that was not available during the Planning Commission's public rezoning information meeting. Therefore, the County Commissioners remanded the application back to the Planning Commission for additional review and public comment. All other aspects of the application remain the same.

Applicant's Presentation

Mr. Zachary Kieffer, legal counsel for the applicant, reminded members that following the Planning Commission's public information meeting, they recommended denial of the rezoning based on school inadequacy and the lack of a plan for mitigation. If the schools remain inadequate at the site plan/final plat stage, the developer is proposing an age-restricted community. Age restricted development would not require mitigation for school adequacy issues.

Public Comment

- Annamarie Wise – Ms. Wise expressed her opinion that the proposed development would be surrounded by commercial development and there is not enough space for recreational activities for residents living in the proposed residential units.

Discussion and Comment from Members

Mr. Kline stated that he would like to meet with the County Attorney to discuss enforcement issues of the age restricted units. He would like to know who would be responsible for enforcement and what would the County's role be in enforcement.

Consensus: The Planning Commission will defer action on this application until a later time.

RZ-21-007 – 19817 Beaver Creek LLC

Staff Presentation

Mr. Allen presented for review a rezoning application for 131.28 acres of property located at 19817 Beaver Creek Road and along the west side of Dual Highway. The applicant is requesting a change in zoning from

RM (Residential, multi-family) to HI (Highway Interchange). The rezoning application consists of two parcels of land: the smaller parcel is improved with a residential structure and the larger parcel is used for agricultural purposes. Mr. Allen presented the following criteria for the Planning Commission's consideration in evaluating this application.

- *Availability of public water and sewer services* – This site is designated as S-5 and W-5 (long-term planned services) in the County's Water & Sewerage Plan. This means that no public water or sewer service is currently available. If services become available in the future, the site would be served by water from the City of Hagerstown and sewer from the County. It was noted that the site is currently located outside of the City's Medium Range Growth Area (MRGA). Presently, the site would rely on individual well and septic.
- *Compatibility with existing/proposed development* – Mr. Allen noted the uses of several areas surrounding I-70 as follows: north of I-70 is a mixture of residential zoning classifications with varying densities, some areas zoned HI and land that falls within the Town of Funkstown and the City of Hagerstown; south of I-70 there are large parcels being used for agricultural purposes; numerous properties around the interchanges are zoned HI; and to the west of the interstate is property zoned Residential Urban.
- *Land Use* - Historically, the area along Beaver Creek Road has been farmland, woodland, and single-family residential uses. Recently, there have been a few commercial businesses that have opened in this area (such as Vinny's Towing and US Lawns). Mr. Allen noted there are several car dealerships in the area and low intensity commercial uses along US Route 40. The applicant is proposing the HI zoning designation which is intended to provide suitable locations for commercial activities or light industrial uses for highway travelers, provide goods or services to the local population or provide for uses that have a need to be located near the interstate highway system.
- *Relationship to the Comprehensive Plan* – The County's 2002 adopted Comprehensive Plan Land Use Plan designates this area as low-density residential. This policy area is the main transitional classification from the urban to the rural area and is primarily associated with single-family development.

Mr. Allen stated that in a piecemeal rezoning such as this one, the applicant must provide sufficient evidence that a change in the character of the neighborhood has occurred or there was a mistake in the zoning of this property in 2012 during the Urban Growth Area comprehensive rezoning. In this case, the applicant is claiming a mistake was made in 2012 in the zoning of this property and cites the following reasons:

- 1) *The site is not served by public water and public sewer and therefore, the requirements of the RM zoning district cannot be met* – Staff confirms that public water and sewer services are not available to this site; however, public water and sewer services were identical for both the RM and the HI zoning classifications in 2012 when the property was rezoned. It was noted that this requirement could potentially be waived by the Planning Commission with input from the Health Department. Prior to 2012, this property was zoned HI-2 which was intended to be a transitional zone between the HI-1 zoned areas and residential uses. The HI-2 zone allowed low intensity industrial uses, commercial uses, and a range of residential uses with varying densities. The HI-2 district did not require connection to public water and sewer but did allow for higher density development if public water and sewer was available at the time of development. The RM zoning classification was recommended by the UGA Advisory Committee, which was appointed by the Board of County Commissioners. The Advisory Committee believed this area could be used to facilitate multi-family residential development in the county. At that time, staff recommended the RT (Residential, Transition) zoning designation which was a low-density residential zoning classification and would have been more compatible with the Comprehensive Plan's Land Use Plan. The RT zoning classification also requires connection to public water and sewer facilities.
- 2) *Similarly situated properties in the vicinity that are within the UGA but outside of the City's MRGA were zoned HI in 2012* - Staff confirms that other similar properties in the area were zoned to HI during the 2012 rezoning.

In conclusion, Mr. Allen noted that infrastructure requirements such as road improvements and school adequacy would be difficult to achieve for the RM zoning district as well as for some of the more intensive uses permitted in the HI zoning district; some less intensive permitted uses in the HI zoning district might be feasible. He also noted that neither the RM nor the HI zoning districts are compatible with the County's adopted Comprehensive Plan and no public water or sewer services are available in the foreseeable future. Mr. Allen stated that four letters in opposition of the proposed rezoning were received prior to the public information meeting; there were no letters supporting the request.

Applicant's Presentation

Mr. William C. Wantz, 123 W. Washington Street, Hagerstown, legal counsel for the applicant, was present at the meeting. Also present and representing the applicant were Mr. Mike Nalepa and Mr. Joshua Sewald. Mr. Wantz gave a brief summary of the applicant's interest in the property noting that the original intent was to develop a multi-family residential use on the property. However, after discussions with the City of Hagerstown's Water Department, the applicant was told that there would be no extension of services in the foreseeable future to support a multi-family residential development. The applicant then began exploring other development options for the site that would not require a large number of EDUs, such as uses that are permitted in the HI zoning district.

The applicant contends that the property is better suited for the HI zoning classification and gave the following reasons to support this position:

- There are too many limitations for planning, building and funding a multi-family residential development using individual wells and septic.
- Scattered low density housing creates sprawl development which is not consistent with State guidelines.
- There are two cloverleaf interchanges in the County: one at Dual Highway and one at Halfway Boulevard. No new interchanges are proposed so we should use the interchanges we have to the greatest extent possible.
- It must be presumed that when the RM zoning was applied in 2012, the local legislative body must have been optimistic that the City would be able to provide water and sewer services to the site.
- Adjacent property uses should be considered when reviewing this application. Across the road is a billboard site, there are 4 single-family residential homes which were built between 1946 and 1953 which pre-date the I-70 highway system, and there are new commercial uses that have been established since 2020. The large acreage of the Agrimar tract, the subject property, offers the availability of ample land and wide buffers with vegetative screening on all sides for any use permitted under the HI zoning district.

Mr. Joshua Sewald of Dynamic Engineering stated that the HI zone provides a great flexibility of uses such as low intensity retail services, warehouses, self-storage units, etc., that do not demand high levels of water usage. He noted that the adequate size of the property and frontage would allow for improvements such as widening the roadway, the possible installation of a traffic signal on Route 40 at the intersection with Beaver Creek Road, and the permitted uses could be supported on individual wells and septic systems. It is his professional opinion that based on the size of the property, the limited environmental features in the middle of the site and the usable land, this property was designed to provide uses that would better serve the area as well as Route 40 and Interstate 70.

Mr. Mike Nalepa of Street Traffic Studies stated that a scoping request has been submitted to Washington County for the traffic study that will be required if this rezoning request is approved. He believes that the developer will be able to adequately address any traffic issues that might arise as a result of this rezoning approval.

Discussion and Comments

Mr. Goetz asked if there are any road improvements proposed on Beaver Creek Road due to the development of Gaver Meadows. Mr. David Trostle of Frederick, Seibert & Associates, stated there are no improvements proposed for Beaver Creek Road, only Emmert Road.

Mr. Weddle noted that the subject property is currently proposed to be removed from the Urban Growth Area. Ms. Baker stated that the applicant is aware of that proposal but has decided to move forward.

Public Comment

- Bette Jo Shifler, 20017 Beaver Creek Road – Ms. Shifler stated that Vinny's Towing and US Lawns are both businesses that operate during daylight hours and produce very little traffic. She stated that when there are accidents on I-70, traffic can be backed up for at least a mile in the area. She noted that the SHA has told her that the I-70 cloverleaf is very outdated and there are currently no plans for improvements. She does not believe there will be adequate fire protection for any businesses because there is no public water. Ms. Shifler noted there is a warehouse proposed on Howell Road, which she has been told generates 2,000+ trucks per day and she believes that roads in the area cannot accommodate that amount of traffic. She

made an inquiry as to the location of the access on Route 40 and if a traffic study has been done on Dual Highway.

- Mike Siecker, 10223 Summers Lane – Mr. Siecker expressed his concern regarding traffic issues, access to the site, and light pollution.

Applicant's Rebuttal

Mr. Wantz addressed the Planning Commission and citizen's concerns as follows:

- Road improvements to the site could be easily accomplished. The applicant is willing to make any traffic pattern and road improvements required by the SHA.
- Screening and buffering of the site would be determined by the Planning Commission during the site plan stage.
- A traffic study has been completed that includes the Dual Highway (Route 40)
- The developer would work with the responding fire company to address the need for fire protection which will be dependent on the type of use on the site.
- Lighting issues will be addressed during the site plan stage and subject to review by the Planning Commission.

The rezoning public information meeting concluded at 8:10 p.m.

MINUTES

Motion and Vote: Mr. Kline made a motion to approve the minutes of the Planning Commission regular meeting as presented. The motion was seconded by Mr. Semler and unanimously approved.

NEW BUSINESS

SITE PLANS

Rowland on Holdings LLC [SP-21-036]

Ms. Kelly presented for review and approval a site plan for a proposed tractor trailer gravel storage lot on 5.60 acres located at the south end of French Lane, east of Greencastle Pike and north of I-70. The property is currently zoned H1 (Highway Interchange). There will be one access point from French Lane. The site will be used seven days per week, 24 hours per day. There will be no employees, lighting, signage, public water or public sewer for this site. Bio retention ponds will be constructed to handle storm water. Forestation requirements were previously met with forest retention easement plats that were approved in 2000 under the name of Hunter's Green. All agency approvals have been received.

Motion and Vote: Mr. Kline made a motion to approve the site plan as presented. The motion was seconded by Mr. Reeder and unanimously approved.

Sheetz Store #145 [SP-21-031]

Mr. Stotelmyer presented for review and approval a site plan for the replacement of Sheetz Store #145 located at the corner of Longmeadow Road and Pennsylvania Avenue. The proposed store will be 6,077 square feet and will replace the existing store. All fuel dispensers and islands will be removed and replaced as well. The site will continue to be accessible from Pennsylvania Avenue as well as Longmeadow Road. Although the Sheetz store will be closed during the construction of the new store, the access lane to Martin's will remain open. The current site has 40 parking spaces; the new site will have 43 parking spaces. The site is served by public water from the City of Hagerstown and public sewer from Washington County. The hours of operation will be seven days per week, 24 hours per day. Lighting will be pole and building mounted. Signage will be building mounted; the existing pole mounted sign will be upgraded. The existing car wash will remain and will receive an updated façade. All agency approvals have been received.

Motion and Vote: Mr. Kline made a motion to approve the site plan as presented. The motion was seconded by Mr. Reeder and unanimously approved.

FOREST CONSERVATION

Western Maryland Parkway Warehouse [GP-21-024]

Mr. Allen presented for review and approval two requests to meet Forest Conservation requirements for a proposed warehouse and office space on property located along the northwest side of Western Maryland Parkway. The first request is to utilize the payment-in-lieu of planting to satisfy 5.92 acres of planting requirement; the second request is to remove 3 specimen trees from the site. The property is currently zoned H1 (Highway Interchange). The unusual shape of the parcel, the size and dimensions of the proposed building, and the required parking associated with the development make retention of forest and the specimen trees unfeasible. Forest situated along the east side of the parcel will be retained; however, there is no additional space for planting.

Motion and Vote: Mr. Kline made a motion to approve both requests as presented. The motion was seconded by Mr. Goetz and unanimously approved.

[Mr. Weddle left the meeting at 8:20 p.m.]

Chris and Dusky Rankin, Bivens Estates, Lot 21 [S-21-054]

Mr. Allen presented for review and approval a request to vacate .25 acres of an existing forest easement, leaving .86 acres in the easement on-site, for the relocation of a septic system on property located at 17000 Bivens Lane. He explained that there are 3 overlapping land use considerations that are part of this septic relocation request: 1) the integrity of the forest easement on the site; 2) the potential existence of an intermittent stream buffer; and 3) the specific location of the septic area that is required by stream buffer regulations, flood plain regulations and the conservation of wet or hydric soils. Mr. Allen stated that the Forest Conservation Ordinance prioritizes the retention of existing forest within intermittent stream buffers; the Subdivision Ordinance requires buffers to be provided for perennial/intermittent streams; and septic systems are generally prohibited in intermittent/perennial stream buffers and are not located in hydric soils. Following a detailed review of the property and changes that have occurred up stream, the Soil Conservation District determined that the intermittent stream does not flow to the extent that it previously did so the buffer is no longer required for this parcel. It was also determined that the flood plain is now located off-site. The Health Department has determined that this location is the best area for the septic system.

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

OTHER BUSINESS

Black Rock PUD

Ms. Baker reminded members that the applicant submitted an application several months ago for a major change to the approved Black Rock PUD development plan. The proposed change was to increase the density from 595 dwelling units to 1,148 dwelling units. On February 1, 2022, the Board of County Commissioners denied the request. In response to this denial, the applicant is now proposing to go back to the original density and number of residential units shown on the approved development plan but clustering the units on a smaller portion of the property. A portion of the larger parcel to the left, would be retained for open space. Following a review of the regulations depicted in the Zoning Ordinance, staff does not believe the proposed changes warrant a major change for the following reasons: there is no change in the total number of residential units or density being proposed and the types of residential houses and amenities are comparable.

Discussion and Comments: Mr. Semler expressed his concern that the developer would come back at a later time and want to develop the open space area. Ms. Baker explained that this would be a designated open space area used to meet the current requirements of the Zoning Ordinance. Any proposed change to develop that area would be required to go through the public hearing process again. Mr. Semler asked if the original plan was denied by the Planning Commission but approved by the County Commissioners. Ms. Baker stated that the original plan was recommended for denial by the Planning Commission but ultimately approved by the County Commissioners. Mr. Semler asked if traffic and water issues would still be a concern if the original plan is followed. Ms. Baker stated that the developer would have to go through the site plan process and would still have to address water issues, traffic issues and any other approving agency comments and concerns.

Mr. Goetz asked for clarification of the density and number of residential units in both the original plan and the proposed plan. Ms. Baker reiterated that there is no change in the number of residential units or

the density from the original plan; however, the developer wants to use a clustering plan to increase the open space area and reduce lot sizes.

Mr. Kline expressed his opinion that the proposed change is a major change and needs go through the public hearing process. Mr. Reeder concurred.

Commissioner Wagner stated that he would be abstaining from any action taken this evening. However, he expressed his concern that if the proposed plan is approved, the developer could come back at a later date with a new plan to develop the remaining lands, which would have the potential to be approved by a new Board of County Commissioners.

Motion and Vote: Mr. Kline made a motion that the Planning Commission consider this a major change which will need to go to public hearing. The motion was seconded by Mr. Goetz and unanimously approved with Commissioner Wagner abstaining from the vote.

Update of Staff Approvals

Ms. Kinzer stated that a written report of development activity for the month of January 2022 was sent to members in the agenda packet.

Comprehensive Plan Update

Ms. Baker believes that the Planning Commission should schedule workshop meetings to focus only on items related to the Comp Plan. We will present information on population projections, land use densities, MRGA limitations, etc. Staff will be sending the Commission members dates for workshop meetings.

UPCOMING MEETINGS

1. Monday, March 7, 2022, 7:00 p.m. – Washington County Planning Commission regular meeting

ADJOURNMENT

Mr. Semler made a motion to adjourn the meeting at 8:55 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,



Clint Wiley, Chairman