

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
August 30, 2021**

The Washington County Planning Commission held its regular monthly meeting on Monday, August 30, 2021 at 7:00 p.m. in the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

Planning Commission members present were: Clint Wiley, Robert Goetz, Denny Reeder, Jeff Semler, Jeremiah Weddle and David Kline. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Travis Allen, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Rebecca Calimer, Chief of Plan Review; Lisa Kelly, Senior Planner; and Scott Stottlenyer, Planner.

CALL TO ORDER

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

PUBLIC REZONING INFORMATION MEETING

Staff Presentation

Mr. Allen presented a map amendment application submitted by Sharpsburg Pike Holdings LLC for 9.92 acres of property located at 10319 Sharpsburg Pike, between Col. Henry K. Douglas Drive and Poffenberger Road, approximately 1/3 mile south of the I-70 interchange. The applicant is requesting to apply the Mixed Use Commercial (MXC) floating zone over the current Highway Interchange (HI) zoning district. Mr. Allen briefly reviewed the purpose and criteria of the MXC district as described in Article 16 of the Washington County Zoning Ordinance. He noted that specific conditions must be met before a floating zone can be approved for an existing piece of land, such as: location, utilities and compliance with the Adequate Public Facilities Ordinance (APFO).

Mr. Allen reviewed the permitted uses and densities allowed in the MXC zoning district. It was noted that two types of multi-family residential units (25 dwelling units or 15% of the entire development) are required. Up to 70% of the development may be commercial uses in an HI district and a minimum of 5% open space is required, not including the forest conservation area. Twelve dwelling units per acre are permitted in the proposed mixed use zoning district. Mr. Allen stated that the mixed use development should contain a comprehensive and cohesive pathway system for pedestrians and non-motorized forms of transportation and all commercial uses should be primarily, but not exclusively, designed to serve the residents of the development.

Mr. Allen stated that the design of the concept plan meets the minimum requirements of the proposed district. It was noted that of the 111 dwelling units proposed, 105 (or 95%) are intended to be apartment units, with only 6 townhouse units proposed. Therefore, the variety of housing choices would be very limited. Mr. Allen also noted that only 6,000 sq. ft. (or 1.4%) of commercial space is proposed. Open space appears to be very minimal and does not exceed the 5% minimum that is required. Staff believes that changes could be made to the plan to meet the true intent of the MXC district.

Also of concern is the adequacy of public facilities. Schools serving this development would be Rockland Woods Elementary, E. Russell Hicks Middle and South Hagerstown High schools. Each of these schools already exceed the State Rated Capacity (SRC). When current capacity exceeds 120% of the SRC (which is the case with South Hagerstown High), the project is not eligible to use the Alternate Mitigation Contribution (AMC) to mitigate for school capacity impacts. Projects that cause the affected school district to exceed 120% of the SRC must be negotiated with the Board of County Commissioners in consultation with the Board of Education. According to the Washington County Public Schools Educational Facilities Master Plan, released in June 2021, South Hagerstown High School "is projected to remain over capacity for the foreseeable future" and explicitly states that "WCPS does not currently anticipate the ability to add a comprehensive high school in the next ten years". There are no known remedies at this time.

Another concern includes the availability of public water for the site. This site is already connected to the City of Hagerstown's water system, falls within the City of Hagerstown's Medium Range Growth Area (MRGA), and has a pre-annexation agreement with the City. However, the ability of the City to provide water service to this site is based upon growth assumptions that utilize existing zoning classifications. The rezoning of this property for a more intensive land use is a variable that was not accounted for when the City developed its growth model.

Staff believes that at some point in the future, a mixed use development would be appropriate at this location. However, the timing of this project is a concern due to inadequate public facilities to serve the proposed development. Written comments from neighboring property owners have been received by staff citing concerns regarding traffic, school capacity and water and sewer services.

Discussion and Comments: Mr. Kline asked if there were other developments in the area that are anticipating additional growth that would affect school capacity. Ms. Baker stated there are several residential developments, including Westfields and Claggett's Mill as well as Hager's Crossing in the City of Hagerstown, being developed; however, these developments are already included in the estimates for school capacity.

Applicant's Presentation

Mr. Zachary Kieffer, 19405 Emerald Square, Suite 2100, Office 202, Hagerstown, legal counsel for the applicant and Mr. Trevor Frederick of Frederick, Seibert & Associates, 128 South Potomac Street, Hagerstown, engineer for the applicant, were present to represent the applicant at the meeting.

Mr. Kieffer stated that the concept plan meets all of the minimum requirements of the MIXC zoning district by including two different types of multi-family dwelling units and a mixture of commercial/retail space. He addressed concerns that staff discussed in the Staff Report and Analysis. It was noted that a Traffic Impact Study (TIS) was approved in April 2020, which contemplated a hotel use which is a principally permitted use in the current HI zoning district. According to the TIS, changing the use from a proposed hotel to a mixed residential/commercial use decreases the number of trips generated. Ingress and egress would be from Col. Henry K. Douglas Drive via a private drive that connects buildings 1 and 2 and provides another means of access to the property. There will be a full motion, signaled intersection which will be paid for by the developer. Other road improvements that were recommended in the 2020 TIS, including road widening, an accel/decel lane, and a median on Sharpsburg Pike are also proposed.

Mr. Kieffer stated that the developer has signed a pre-annexation agreement with the City of Hagerstown for water service to this site and sewer allocation has already been purchased. The developer realizes that services cannot be guaranteed until final plat approval; however, the City has raised no objections to the concept plan thus far. Addressing the APFO school capacity issue, Mr. Kieffer cited case law from the Maryland Court of Special Appeals that says that adequate public facilities for school capacity shall be addressed during the final site plan approval process, not during the zoning approval process. He noted that the developer is willing to address this issue and has suggested that the apartments could be age-restricted. Mr. Kieffer discussed the open space area, which the engineers believe will exceed the minimum 5% requirement.

In conclusion, Mr. Kieffer briefly reviewed some of the permitted uses allowed under the current HI zoning district, such as hotels, retail, biological hospitals, laboratories, etc. He believes that these uses would have a greater impact on traffic and water and sewer facilities than the applicant's proposed mixed uses.

Discussion and Comments: Mr. Kline asked, if the rezoning is approved, when a site plan would be submitted. Mr. Frederick stated that it would take approximately 9 to 12 months to submit a site plan for approval because a State Highway Administration permit would need to be obtained for road improvements first.

Mr. Kline stated he is not opposed to the mixed use and believes that the apartments would provide a less expensive housing option for people who can't afford to own a house. He expressed his opinion that any developer within the South Hagerstown High School district would face the problem of school capacity issues. However, he questioned if school capacity issues could be solved within a year.

Public Comment

- Mary Shipway, 18519 Nathan Court, Hagerstown – Ms. Shipway expressed concern regarding traffic issues on Sharpsburg Pike and Poffenberger Road. She believes there are other places around the County that have been abandoned that could be rehabilitated and used for this type of development.
- Kurt Shipway, 18519 Nathan Court, Hagerstown – Mr. Shipway believes a new traffic study should be completed because there have been numerous changes and additional development in the area since the last traffic study. He noted that results may have also been affected by the pandemic and changes in people working from home instead of commuting every day. Mr. Shipway expressed concern regarding school capacity issues.

- Anemarie Wise, 10304 Cold Harbor Drive, Hagerstown – Ms. Wise expressed her opinion that the area has been developed commercially and should remain in HI zoning. She noted there is no buffer between the commercial development and the Cross Creek subdivision. Ms. Wise expressed concern regarding traffic issues and school capacity.
- Kevin Wines, 10304 Cold Harbor Drive, Hagerstown – Mr. Wines stated that traffic speeding on Col. Henry K. Douglas Drive to reach Poffenberger Road through the existing neighborhood is a safety concern. He is also concerned about the abandoned houses along Sharpsburg Pike which are not being maintained and are being occupied by the homeless.
- Jeff Bowers, 10401 Bear Creek Drive, Hagerstown – Mr. Bowers expressed his concern that the proposed apartments will be Section 8 housing. He believes that most of the people that live in this County are commuting to other areas for work, but live here because it is cheaper.
- Chris Ompps, 18326 Ranch Road, Hagerstown – Mr. Ompps is very concerned about school capacity issues and also expressed concern regarding traffic issues. Mr. Ompps expressed his opinion that we need to be proactive instead of reactive.
- Pat Kay, 10408 Bear Creek Drive, Hagerstown - Ms. Kay expressed her concern regarding traffic issues, buffering from the proposed development, and school capacity issues.

Applicant's Rebuttal

Mr. Frederick stated that the Traffic Impact Study was approved in April 2020 and is valid for a period of three (3) years. He noted that the Study includes a distribution analysis detailing where the traffic is coming from and where it is going. Regarding the 50 foot buffer, Mr. Frederick stated there is a 30 foot wide sanitary sewer easement that runs along the eastern and southern boundary lines, which is owned and maintained by Washington County for an 8" force main line. Therefore, no vegetation or structures are permitted within that easement. The additional 20-foot buffer prohibits any structures within it; therefore, all buildings are at least 50 feet from the property line as required. Most of the road improvements are developer driven and are paid for by the developers.

Discussion and Comments: Mr. Semler asked when the Traffic Impact Study counts were taken. Mr. Frederick stated that the counts were taken on May 29, 2019, prior to the pandemic. Ms. Calimer noted that the TIS accounted for background growth and a build-out date. Mr. Goetz expressed his opinion that traffic from a commercial use might go in a different direction than traffic from a residential use which would not compound traffic-related issues on Poffenberger Road.

Mr. Weddle expressed his opinion that a rezoning change should be a benefit to the community, not for the developer and asked how this would benefit the community. Mr. Kieffer stated it would increase the tax base for the County. People may work in other areas but they would be spending their money here where they live.

Mr. Kline expressed his concern with regard to the limited amount of open space area. Mr. Kieffer noted this would be addressed at the site plan stage.

The public rezoning meeting ended at 8:30 p.m.

REGULAR MEETING

MINUTES

Motion and Vote: Mr. Semler made a motion to approve the minutes of the August 2, 2021 Planning Commission regular meeting as presented. The motion was seconded by Mr. Reeder and unanimously approved.

NEW BUSINESS

SITE PLANS

Royal Farms Store #387 [SP-20-019]

Ms. Kelly presented for review and approval a site plan for Royal Farms Store #387 on 3 acres of property located at 11532 French Lane. The property is currently zoned HI (Highway Interchange). The developer is proposing to construct a convenience store approximately 4500 square feet in size with an outside eating area and 6 gas pumps. There will be two access points into the site from French Lane. Required parking is 54 spaces; 61 spaces will be provided. Public water and sewer will serve the site. Hours of operation will be 7 days per week, 24 hours per day. Six employees are projected. Freight and delivery will be on an as needed basis. Lighting will be building and pole mounted and there will be lighting on the

gas canopy. One pylon sign will be located along the front of the property and building mounted signs will be used. Landscaping will be in the bio-retention ponds adjacent to the building and along the southern property line. Forest conservation requirements will be met by a payment-in-lieu in the amount of \$9,408.96.

Motion and Vote: Mr. Kline 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. Weddle and unanimously approved.

FOREST CONSERVATION

Royal Farms Store #387 [SP-20-019]

Mr. Allen presented for review and approval a request to remove two (2) specimen trees from property located at 11532 French Lane. According to the applicant's justification statement, these trees (Norway Maples) are an invasive species and due to their shallow root system there is potential for run-off from the site. Removal of these trees would not adversely affect water quality.

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

Big Spring Solar LLC [SP-21-021]

Mr. Allen presented for review and approval a request for off-site forest mitigation for Big Spring Solar located at 11505 Ashton Road. This site plan is a modification to a previously approved site plan for a 2 megawatt solar project which was approved by the Board of Zoning Appeals in 2015. The applicant is requesting to use off-site retention to satisfy the 3.63 acre planting requirement. Mr. Allen noted there is no existing qualified forest on the site and the proposed easement is within three (3) miles of the development site.

Motion and Vote: Mr. Kline made a motion to approve the off-site forest mitigation as presented. The motion was seconded by Mr. Goetz and unanimously approved.

OTHER BUSINESS

Update of Staff Approvals

Ms. Calimer stated that a written report was sent to members, via e-mail, prior to the meeting. The report provided the following information for the month of August for Plan Review – Land Use: 3 stormwater concept plans, 1 forest stand delineation, 3 site plans, 1 simplified plat, 2 replats, 6 inspection and maintenance agreements, 3 standard grading plans, 2 site specific grading plans, and 4 traffic impact studies.

Comprehensive Plan Update

Ms. Baker reported that the Community Facilities (Chapter 10) and Historic (Chapter 11) elements were distributed to members this evening.

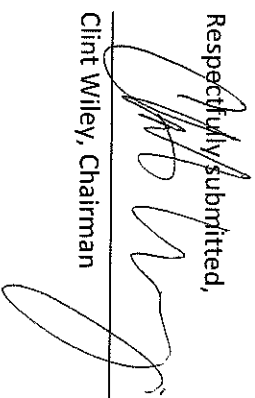
UPCOMING MEETINGS

1. Monday, October 4, 2021, 7:00 p.m. – Washington County Planning Commission public rezoning information and regular meeting

ADJOURNMENT

Mr. Kline made a motion to adjourn the meeting at 9:20 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,


Clint Wiley, Chairman