

**WASHINGTON COUNTY PLANNING COMMISSION
PUBLIC REZONING INFORMATION MEETING
September 25, 2017**

The Washington County Planning Commission held a public rezoning information meeting on Monday, September 25, 2017 at 6:00 p.m. at the Washington County Court House, Court Room #1, 24 Summit Avenue, Hagerstown, Maryland.

Commission members present were: Chairman Clint Wiley, Jeremiah Weddle, Denny Reeder, and David Kline. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Jill Baker, Chief Planner; Travis Allen, Comprehensive Planner; and Debra Eckard, Administrative Assistant.

CALL TO ORDER

The Chairman called the meeting to order at 6:05 p.m.

RZ-17-003 – Downsville Pike Land, LLC

Staff Presentation

Mr. Allen presented a map amendment request for Downsville Pike Land, LLC for property located at 10662 (Parcel 408; 0.50 acres) and 10656 (Parcel 210; 1.10 acres) Downsville Pike. The applicant is requesting a change in zoning from RS (Residential Suburban) to HI (Highway Interchange) on 1.6 acres of land. This request is considered a piecemeal rezoning and as such, the Planning Commission must consider the following criteria as listed in Article 27.3 of the Washington County Zoning Ordinance: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, relationship to the Comprehensive Plan and evidence of "change in the character of the neighborhood" or "mistake in the original zoning" of the property.

Mr. Allen gave a brief overview of the criteria outlined above. He noted that this property is located in the Halfway Election District which has grown more slowly than the County as a whole between 1980 and 2010. The site is served by existing public water (City of Hagerstown) and public sewer (Washington County – Conococheague WWTP). Fire and emergency services are provided by the Volunteer Fire Company of Halfway, which is located approximately 1 mile from the site. If the HI zoning district is approved, the site will be used for commercial development; therefore, there will be no impact on the school system and no APFO mitigation will be required.

Mr. Allen noted that during the past 30 years, the overall trend of traffic volumes in this area have declined slightly with the trend holding steady at approximately 12,000 daily trips during the past several years. No new major roadway projects are proposed in the immediate vicinity per data found in the County's CIP and the State Highway Administration's Consolidated Transportation Plan. However, due to the construction of the Sheetz across the road, several intersection improvements are planned and will be funded by the developer of the Sheetz store. Those intersection improvements include the following: traffic signal and crosswalks at Maryland 632/Venture Drive; Venture Drive will be restriped to 3 lanes; and traffic signals will be synchronized at MD 632/Halfway Boulevard, MD 632/Oak Ridge Drive and MD 632/Venture Drive.

Currently, parcels 408 and 210 each have their own access via driveways along Downsville Pike. Downsville Pike has a median running north and south from the Halfway Boulevard intersection. Halfway Boulevard has dual left turn lanes for eastbound traffic and Marty Snook Park abuts the western boundary of the property. Comments received from Engineering Plan Review included the following: a new access location onto Halfway Boulevard may be required; a traffic study to determine the impact on MD 632/Halfway Boulevard intersection may be required; and because Halfway Boulevard is a minor arterial, a minimum of 500 feet for spacing between access locations will be required.

Mr. Allen explained that Marty Snook Park is immediately adjacent to the subject sites, there is a large area of residential development to the north and west of the subject sites, the Park & Ride is immediately south of the property and just beyond the Park & Ride is the I-70 on-ramp. Parcel 210 sits atop a small hill and slopes toward Marty Snook Park with a small intermittent stream along the baseball field. There are currently residential structures on both parcels.

Mr. Allen stated there are six historic inventory sites within ½ mile of the subject parcels. One of these historic structures, the Anita Rice house, sits on Parcel 408, one of the two parcels proposed for rezoning. The structure is a circa 1900-1910, two-story vernacular house.

Mr. Allen briefly reviewed the definition of the Highway Interchange district as stated in the Zoning Ordinance and noted that the proposed HI zoning district is intended to serve a regional population. He also noted that the subject parcels were designated in the County's adopted 2002 Comprehensive Plan for low density residential uses.

Mr. Allen explained the "Change or Mistake Rule" which applies to a piecemeal rezoning; the burden of proof lies with the applicant. He discussed the criteria to be considered to prove a "change" in the character of the neighborhood as follows: define the boundaries of the neighborhood; demonstrate that substantial changes have occurred since the last Comprehensive Zoning; and, show that those changes resulted in the altered character of the neighborhood. Evidence to prove a "mistake" in the original zoning

is as follows: the local legislative body failed to take into account projects or trends probable of fruition; the legislative body made decisions based on erroneous information; the legislative body used facts that were later proven to be incorrect; the legislative body could not have foreseen events that have occurred; or the legislative body ignored facts in evidence at the time of the zoning application.

In 2012, a comprehensive rezoning of the Urban Growth Area was adopted by the Board of County Commissioners. During the comprehensive rezoning process, input of property owners, local officials, staff and the general public was solicited and considered in the zoning assignment of each parcel affected by the Comprehensive Rezoning. Property owners were notified of the rezoning process and given an opportunity to participate and affect the Board's decision. The Planning Commission as well as the County Commissioners utilized population projections, growth trends, transportation and infrastructure data, public input and the comprehensive plan in its analysis and decision.

The applicant is claiming a mistake in the current zoning of the property based on the following: the local legislative body failed to consider the separation of parcels 210 and 408 from adjacent residential areas to the north and west by Halfway Boulevard and Marty Snook Park; the proximity of other commercial development to the east; the proximity of the I-70 interchange (both for its development potential and traffic impacts on continued residential uses), and rezoning of similarly situated interchange parcels. Staff believes that the local legislative body judged the parcels to be more closely associated with adjacent residential uses than commercial uses in the area based on the following: the extensive history of residential use; the designation of low density residential use cited in the Comprehensive Plan; traffic patterns and access to these parcels; and, the potential for conflicts with Park users if the access to these parcels is shared with the Marty Snook Park.

The applicant is also claiming a change in the character of the neighborhood and provided the following evidence to support their claim: an increase in the average daily traffic at the intersection of Halfway Boulevard and Downsville Pike from 2012 to 2015; the approval of the new Sheetz store across Downsville Pike from the site; and the rezoning of several adjacent parcels as part of the 2012 UGA rezoning to more intensive uses. Staff reiterated that the volume of traffic has decreased over the long term and has remained steady throughout the short term. Mr. Allen noted that the Sheetz site has been zoned for a commercial use for many years and was not a result of the comprehensive rezoning of the UGA in 2012. It was also noted that the comprehensive rezoning of the UGA cannot be used as evidence of a change in the character of the neighborhood in and of itself, but rather it must be linked to changes that occurred prior to or after the comprehensive rezoning.

Staff believes that the applicant has provided insufficient evidence of either change or mistake since the 2012 UGA rezoning.

Applicant's Presentation

Bruce Dean of Linowes and Blocher, 131 West Patrick Street, Frederick, Maryland, legal counsel, Gordon Poffenberger of Fox & Associates, Inc., 981 Mt. Aetna Road, Hagerstown, Maryland, engineer, and Christopher Smith of Downsville Pike Land, LLC, 10306 Remington Drive, Hagerstown, Maryland, applicant, were all present at the meeting. Mr. Dean and Mr. Poffenberger began a question and answer exchange. Following is a summary of that exchange. Mr. Poffenberger noted that the dwellings on the subject parcels have been abandoned since 2013, which was the last time the properties were used for residential purposes and are in severe disrepair. He described the surrounding area citing both commercial uses (to the south) and residential uses (to the west) of the site. He believes these parcels are no longer suitable for residential uses based on proximity of the I-70 off-ramp to the site and traffic issues currently on Halfway Boulevard and Downsville Pike. It is his opinion that the property should have been rezoned to a commercial designation when the property across the road (site of the new Sheetz) was zoned HI.

Mr. Poffenberger expressed his opinion that changing the zoning on these parcels to a commercial use would not have a negative impact on the neighborhood. Based on limited access to the property and the size and irregular shape of the property, the uses permitted on the site will be limited. It was noted that only a few properties currently have direct access onto Downsville Pike or Halfway Boulevard. Mr. Dean stated that when the interchange at Downsville Pike (MD 632) was constructed, the subject parcels conveyed a "significant" portion of land to SHA, which in his opinion severely limits the uses on these properties.

Mr. Poffenberger expressed his opinion that rezoning the properties to HI will lend compatibility to existing uses and proposed uses in the area. He noted there is a 140 acre parcel south of I-70 that is currently being marketed for a shopping center site.

Mr. Dean and Mr. Smith engaged in a question and answer exchange; following is a summary of that exchange. Mr. Smith stated that he is a 50% owner of the Downsville Pike Land, LLC. He expressed his opinion that this property has been under-utilized for many years and would be a suitable location for a commercial use. When asked what type of use he foresees at this location, he responded with an eatery (i.e. ice cream shop, donut shop) or an urgent care facility. The intent is to integrate the use with the Marty Snook Park and make it a viable asset to the community. Mr. Smith does not believe the residences on the properties can be rehabilitated without considerable time and expense. He noted that the properties have been cited by the County as having public safety issues and declared as unsafe and uninhabitable.

Mr. Smith presented a concept plan for development of the property. He noted that a shared access with Marty Snook Park would not be required; a right-in/right-out onto Halfway Boulevard is being discussed. There could also be an access point from Downsville Pike. Mr. Smith expressed his opinion that traffic from Interstate 70 has a significant impact on traffic volumes at the interchange. He believes there has been a change in the neighborhood due to the death of Mrs. Rice and her family's sale of these properties.

Mr. Dean reiterated that existing transportation patterns in this area with the I-70 off-ramp and the Park & Ride in close proximity to these properties have a negative impact on these properties for residential usage. Therefore, he believes that a mistake was made in the zoning of these properties during the 2012 comprehensive rezoning of the UGA. Mr. Dean explained that the addition of the Sheetz store, the on-going traffic on I-70, and the construction of the interchange in the late 1990s has made a significant change in the character of the neighborhood.

Public Comment

- Lorna Bock, 10811 Brentwood Terrace, Hagerstown, Maryland – Ms. Bock stated she is opposed to the rezoning of these properties due to traffic concerns and the safety of the residents in this area. She believes that traffic and speed on Halfway Boulevard has gradually increased over the years thus making safety a major concern. Ms. Bock cited several points from the Applicant's Justification Statement to support her opposition to the request. Written comments were submitted by Ms. Bock.

Applicant's Rebuttal

Mr. Smith expressed his opinion that blighted properties, such as the subject parcels, have a negative impact on surrounding properties.

RZ-17-005 – BSM Big Pool, LLC

Staff Presentation

Ms. Baker presented a map amendment request for BSM Big Pool, LLC for property located at 11412 Tedrick Drive and 11079 Big Pool Road. The applicant is requesting the Rural Business floating zone over the current Rural Village zoning district on a portion of the property along Tedrick Drive. The parcel is 9.73 acres in size; however, the applicant is requesting the floating zone on only 2.24 acres of land which is currently unimproved. The application for a floating zone requires that the applicant show that the property meets the intent of the floating zone and meets the specified requirements within the Zoning Ordinance.

Following is a list of criteria that should be met before establishing the RB district at a particular location in accordance with Section 5E.4.b of the Zoning Ordinance. Ms. Baker briefly discussed the criteria and gave an explanation of how the requirement can or will be met by the applicant.

1. The proposed location is not within any designated growth area identified by the Washington County Comprehensive Plan.
 - This property is not located within any designated growth area established in the Comprehensive Plan.
2. The proposed location must have safe and usable road access on a road that meets the standards under the "Policy for Determining Adequacy of Existing Roads". In addition, a traffic impact study may be required.
 - The area requested for the RB zoning is technically landlocked behind Parcel 34. It is the applicant's intent to join the subject parcel with Parcel 34 and use the existing entrance onto MD 56 (Big Pool Road), which is a State owned and maintained road. SHA will dictate any improvements that may be needed in order to accommodate entrance onto the site.
3. On site issues relating to sewage disposal, water supply and storm water management can be addressed.
 - A site plan was submitted with the application that shows existing water and sewer facilities that serve the existing development. It also shows additional areas planned for sewerage service as well as storm water management.
4. The proposed location would not be incompatible with existing land uses, cultural or historic resources or agricultural preservation efforts.
 - The proposed RB zone would be an extension of an existing rural business already in the area. The uses on the site will remain the same but allow for a slight expansion of the services provided.

The subject site is located within the Rural Village of Big Pool; and, therefore would be expected to have moderately higher levels of development than more rural areas of the County. There are no historic sites, as designated by the Maryland Historic Survey, nor any land preservation easements in close proximity to the site.

Ms. Baker explained that the site plan submitted with the application indicates that the proposed RB area would be used to improve traffic flow and to accommodate truck traffic already on the site. The site plan also indicates proposed changes to the existing RB use on the adjacent parcel, which would be handled through the regular site plan process if the applicant proceeds with these plans in the future.

In accordance with Section 5E.6 of the Zoning Ordinance, the Planning Commission should consider the following criteria when making its recommendation to the Board of County Commissioners for the creation of a new RB zoning district.

1. The proposed district will accomplish the purpose of the RB District which is *"....to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreational and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County...."*
 - The applicant is proposing to expand the existing use onto an adjacent parcel and to demolish the existing convenience store and relocate the store closer to the interstate as well as increase its size.
2. The proposed site development meets the criteria identified in Section 5E.4 of the Zoning Ordinance.
 - These criteria were previously discussed and have been adequately met.
3. The road providing access to the site is appropriate for the proposed land use.
 - Access to the site is via MD 56 over Parcel 34 (current RB use). The portion of MD 56 between the I-70 westbound ramp and Ernstville Road is currently a two-lane road with wide shoulders. The property is located immediately adjacent to the I-70 eastbound off-ramp. The proposed use, in conjunction with existing uses, would serve the needs of travelers on I-70; therefore, it is reasonable to assume that the majority of traffic to and from the site would be from the interstate. As stated before, SHA owns and maintains MD 56 and may require a traffic study prior to any new development on the existing or proposed sites.
4. Adequate sight distance along roads can be provided at proposed point of access to the site.
 - The site is currently landlocked; however, it is proposed that the site will use the existing access onto MD 56 via Parcel 34.
5. The proposed landscaped areas can provide adequate buffering of the proposed land use from the existing land uses in the area.
 - The applicant is proposing a landscaping buffer along the entire length of the southwest boundary to help shield movement of traffic from the neighboring residential properties. This vegetative buffer should also help shield the neighboring properties from light spillover.
6. The proposed land use is not of a scale, intensity or character that would be incompatible with adjacent land uses or structures.
 - As previously noted, the area proposed for rezoning is currently vacant and unimproved. The proposed expansion of the existing use will provide a better flow of internal traffic and expand the area related to commercial truck traffic. A new, slightly larger diesel canopy is also proposed.

Applicant's Presentation

Mr. Zachary Kieffer of Divilbiss & Wilkinson, 13424 Pennsylvania Avenue, Suite 302, Hagerstown, Maryland, legal counsel for the applicant, was present at the meeting. He presented a brief background of the property noting that the Exxon Corporation used it as a fueling/service station beginning in the 1960s. In 1998, the 5.15 acre property was purchased by the Fulton family (the entity known as BSM Big Pool, LLC). The service bays were converted into a convenience store, the canopy was extended to accommodate diesel fuel pumps, and the rear portion of the property was graded and paved for the installation of new diesel fuel pumps. In April 2017, BSM Big Pool LLC, contracted to purchase the property at 11412 Tedrick Drive currently owned by Eddie and Rhonda Mummert. This property is currently improved with a residential structure and various outbuildings. Mr. Kieffer believes that the proposed use would be compatible with the surrounding area based on the following reference from Section 5E.4(a) of the County's Zoning Ordinance, "Businesses in the rural area existing at the time of the adoption of these regulations [September 1, 2015].....Businesses with this designation need not take any action to continue operation. Such existing uses are viewed as compatible with the character of the rural area and their continued operation is deemed consistent with the policies of the Comprehensive Plan."

The Mummert property is currently zoned EC on the northwest portion and RV on the portion that fronts Tedrick Drive. The applicant is requesting the RB overlay on 2.24 acres of the Mummert property that will ultimately be combined with the existing 2.35 acres of RB overlay on the AC&T property. This will create an RB overlay consisting of 4.59 acres, which constitutes 30% of the combined total area of the two properties.

Mr. Kieffer distributed copies of the most recent preliminary site plan (Applicant's Exhibit #1) to Commission members. He noted that this plan shows the storm water management area in a different location from the previous plan. Mr. Kieffer stated that the existing 2,500 square foot convenience store will be replaced with a mixed use building containing a 4,256 square foot AC&T and a 2,311 square foot restaurant. He distributed a copy of the proposed floor plan (Applicant's Exhibit #2). Both the convenience store and restaurant are permitted uses in the RB zoning district. The applicant is also proposing to expand the number of auto gasoline and diesel fueling positions from 4 to 8 and the truck diesel fueling positions from 2 to 4. Fuel deliveries will be increased from 2 to 4 deliveries per day to 3 to 5 deliveries per day. Hours of operation will be 24 hours per day, 7 days per week. The number of employees will increase from 15 to 20 employees to a total of 40 to 45 employees, thus bringing additional jobs to the area.

Mr. Kieffer explained that despite the expansion of the convenience store and the number of fueling positions, the proposed improvements do not constitute a truck stop. He noted that the Zoning Ordinance's definition of a truck stop is as follows, ".....a structure or land used or intended to be used primarily for the sale of fuel for trucks and usually long term truck parking, incidental service or repair of trucks, overnight accommodations, or restaurant facilities open to serve the general public or a group of facilities consisting of such a use and intended eating, repair, sleeping or truck parking facilities." Mr. Kieffer stated that the applicant's primary use is not the sale of fuel for trucks, there is no long term parking, no incidental truck service or repair, no truck wash, no overnight accommodations, and no showers; therefore, the proposed AC&T does not meet the definition of a truck stop.

Mr. Kieffer expressed his opinion that no variances will be needed from the bulk regulations outlined in Article 5.E of the Zoning Ordinance. All mounted and free standing lights will use LED bulbs and will be directed to avoid glare onto neighboring properties. The applicant believes the existing well and septic system will accommodate the redevelopment and the uses contained therein. The site has adequate parking as shown on the revised preliminary site plan. Storm water management facilities will be located in the northeastern portion of the property between the AC&T and I-70.

Mr. Kieffer believes the request complies with the purpose of the RB district and permits the continuation and development of an existing business not otherwise permitted in the rural areas of the County. This gas station and convenience store will continue to be the sole gas station in the area. The convenience store and restaurant are both permitted uses in the RB zoning district. It is Mr. Kieffer's opinion that the proposed RB district is not incompatible with existing land uses in the area because it would be adjacent to and an expansion of the existing RB district on the AC&T property, the current convenience store and gas station have been in existence for a long period of time, and the property is adjacent to I-70 and is located in close proximity to the I-70 eastbound off-ramp. Adequate buffering will be placed on the property between the business and the residential parcels. The remaining 7.94 acres of the Mummert property will provide additional buffering from the residential properties. Mr. Kieffer stated that the existing mature trees will remain on the site; white pines and arborvitae will be planted as well as the installation of a 6 foot fence will be constructed to aid in buffering of the site. The applicant has met with two of the property owners most affected by the request and worked with them to reach a mutually agreed upon plan for the buffer. Mr. Kieffer submitted a petition as well as letters of support (Applicant's Exhibits 3 and 4) of the rezoning request.

Mr. Jason Divelbiss of Divelbiss & Wilkinson, 13424 Pennsylvania Avenue, Suite 302, Hagerstown, Maryland, legal counsel for the applicant, was also present at the meeting. Mr. Divelbiss reiterated that the AC&T parcel that is currently zoned RB (consisting of 2.35) would be extended to include 2.25 acres of the Mummert property. The remaining acreage would wrap around the site and help to provide buffering between the business and the residential uses.

Public Comment

- Austin Prejean, 13942 Frosty Pines Lane, (P. 212, Lot 3) Clear Spring, Maryland – Mr. Prejean cited the following concerns: storm water management and runoff, screening, diesel fueling area, lighting, increase in traffic, crime, security, fire and emergency services, flooding, safety, environmental issues, and property values. He believes a ten foot high fence covering the entire southern and western boundaries would be a more suitable buffer to provide better privacy and security. Mr. Prejean submitted written comments for the record.
- Douglas Weller, 11526 Big Pool Road, Big Pool, Maryland – Mr. Weller stated he is the Secretary of the District 15 Civic Organization that operates the building next to the driveway of the AC&T and Secretary of the Ruritan that uses the same building (Parcel 107). He is representing both organizations and brought forth the following concerns: heavy traffic on Tedrick Drive, damage to property (photos were provided), noise, heavy traffic on Ernstville Road and the Village of Big Pool. He noted that he also had personal damage on his property which is two miles away. Mr. Weller expressed his opinion that more signs are needed to direct traffic back onto the interstate.
- John Willis, 11003 Big Pool Road, Big Pool, Maryland – Mr. Willis is opposed to the expansion of the business and expressed his opinion that the proposed expansion is a truck stop even though truck parking is not shown on the proposed plan. He believes that truck drivers will park along the exit ramps which will create hazardous and unsafe conditions in the area. He also expressed concern with regard to crime and safety.
- Jennifer Plante-Willis, 11003 Big Pool Road, Big Pool, Maryland – Mrs. Willis expressed her opinion that the current convenience store and gas station have served this area well for many years and this is not the area where a truck stop should be located. She expressed concern regarding the possible contamination of wells and the Potomac River and the danger to the residents and wildlife in the area from fumes and fuel spills. Mrs. Willis shared her concern with regard to crime and safety.
- Michael Tedrick, 11423 Ernstville Road, (P. 212, Lot 1) Big Pool, Maryland – Mr. Tedrick expressed his opinion that if the rezoning is approved, his property and his quality of life will be greatly impacted. He believes that only 50% of the property should be allowed to be used for the proposed uses.
- Cindy Tedrick, 11423 Ernstville Road, Big Pool, Maryland – Mrs. Tedrick expressed her concerns regarding the proposed use of the property and its effects of the rural area: more crime, air and water pollution, trash, sewage runoff with possible contamination of wells, 24/7 noise, lights and bugs, more traffic, privacy, construction eyesore, and lower property values. She expressed her opinion that a business should not request a zoning change in a residential area for its own

capital gain. Mrs. Tedrick submitted a petition signed by community residents opposed to the request.

Applicant's Rebuttal

Mr. Divelbiss briefly addressed the public comments. He noted that the proposed 6 foot fence is permitted by right; a taller fence would need to be approved by the Board of Zoning Appeals. He stated that security is of utmost importance to the applicant and measures will be taken to assure the safety of the business as well as residents and patrons. Such measures may include security cameras, additional lighting, and guards walking the property.

Mr. Divelbiss reminded Commission members that the proposed use is an existing use that is changing, but this is not a new business. The redevelopment of this site will improve the use of the property. He noted there is no proposed access onto Tedrick Drive or Ernstville Road; access will be from MD 56 using the existing entrance. Mr. Divelbiss does not believe that the proposed expansion will add noise more than what is already present from the interstate.

Mr. Divelbiss presented several aerial photographs of truck stops in Washington County (Applicant's Exhibit #5) to show the number of parking spaces a truck stop provides, which is much greater than the proposed 20 spaces at the AC&T. Currently the AC&T has 7 spaces for truck parking. Mr. Divelbiss believes that adding the additional 13 parking spaces would help alleviate the need for trucks to park along the I-70 ramps.

Mr. Divelbiss addressed comments regarding property values and quality of life by stating that the lots on Ernstville Road were subdivided in 1997 and the first house was constructed sometime prior to 2003. These homes were constructed with the business already existing. He clarified that only 30% (4.59 acres) of the overall acreage (14.88 acres) owned by BSM Big Pool LLC would be used for the proposed use and expansion.

Discussion and Comments: Mr. Kline asked if the applicant could construct a berm to help buffer the residential uses from the business. He expressed his opinion that vegetative screening does not effectively block noise. Mr. Divelbiss believes there is no reason a berm cannot be built; however, he noted that there is a grade change so the business sits up higher than the residences. Mr. Kline suggested that the applicant consider other options during the site plan process if the rezoning request is approved to help reduce noise. Mr. Kline briefly discussed a law passed in Maryland that prohibits trucks from sitting and idling for more than 5 minutes. He suggested that someone check into the law, if there are exemptions and enforcement. Ms. Baker noted that some truck stops now offer electrified sites as an alternative to the idling truck situation; however, this can be expensive. Mr. Willis expressed his opinion that regardless of the law, truck drivers are not going to turn their trucks off especially if the weather is too hot or too cold. Mr. Divelbiss stated that the plan shown at this evening's meeting is a plan that has been revised several times following discussions with adjacent property owners.

RZ-17-007 – Text Amendment

Staff Presentation

Ms. Baker presented a text amendment submitted by the Washington County Department of Planning & Zoning for various articles and sections of the Zoning Ordinance pertinent to "Banquet/Reception Facilities, Bed and Breakfasts, Boarding House and Country Inns. Since 1973, the Zoning Ordinance allows residents to room or board non-family members in their homes for compensation. The proposed amendments relative to "boarding" facilities would continue to allow these uses, update terms and clarify the intensity of the use. "Boarding" facilities can have varying intensities and impacts on neighboring properties and infrastructure. Staff analyzed three variables to define the different levels of intensity: owner occupied vs. non-owner occupied; duration of stay; and the number of rooms available for boarders.

Ms. Baker briefly reviewed the proposed changes as follows:

- "Tourist house" – is an outdated term that staff is proposing to delete and will fall into the category of "boarding and rooming homes"
- "Boarding and rooming" homes
 - Special exception use in the RT (Residential Transition), RS (Residential Suburban), RU (Residential Urban) RM (Residential, Multi-family), A(R) (Agricultural Rural), EC (Environmental Conservation) and P (Preservation) zoning districts. Boarding and rooming houses are a permitted use in the RV (Rural Village) and RB (Rural Business) zones.
 - Owner-occupied
 - Limited to four (4) roomers or boarders
 - Allows a longer stay (month-to-month basis)
- "Bed and Breakfast"
 - Special exception uses in the RT and RU zoning districts; Currently a special exception in the RS zoning district
 - Remove sentence in definition that allows them to be an accessory use in the AR, EC, P, and RV districts; Move to the Land Use Table as an accessory use
 - Limited to five (5) rooms – this will coincide with building regulations which require a sprinkler system for six (6) or more rooms

- **Discussion and Comment:** Mr. Reeder asked if there is a square footage limitation or a limit on the number of guests. Ms. Baker stated that the building code dictates only the number of rooms.
- Add definition for a "Country Inn"
 - May be non-owner occupied
 - Limit the number of rooms to ten (10); structures with more than ten (10) rooms would be considered at hotel/motel and would need to be rezoned to the RB district
 - Provides flexibility for on-site catering, banquet and reception facilities as well as meeting rooms

Ms. Baker discussed the previous recommendation of the Planning Commission for a "country inn" to allow expansion beyond the 10 room limit. Staff researched this issue further and found there is not a method in place to allow these types of increases. A "country inn" would be approved as a special exception use granted by the Board of Zoning Appeals. The Planning Commission, by law, does not have the authority to grant changes to the requirements set forth by the Board of Zoning Appeals. Staff recommends that if the Planning Commission believes that the 10 room definition is too restrictive, the minimum number of rooms should be increased in the definition.

Ms. Baker explained that the Zoning Ordinance currently allows Banquet/Reception facilities to occur as special exception uses within the rural zoning areas of the County and as permitted uses within the commercial districts of the Urban Growth Area. She noted there may be other areas within the UGA where these uses may be suitable without disturbing the residential nature. Such areas may include a farm that has been developed over time that contains larger lot sizes and typically contains the original farm house and accompanying outbuildings such as barns, milk parlors, etc. These unique areas provide historic context to the urbanization of the county and how agriculture is still a strong economic driver in the County.

- Banquet/Reception Facilities
 - Special exception use within the RT, RS, RU and RM districts; currently permitted in the BL (Business Local) and BG (Business General) districts
 - Required bulk requirements would include a five (5) acre minimum lot size, a 300 foot lot width, a 50 foot front yard and 100 foot side yard and 50 foot rear yard setbacks
 - Remove the last sentence in the current definition that talks about being an accessory use to hotels/motels
 - Clarify that catering facilities are limited to on-site catering events only

Discussion and Comments: Mr. Weddle asked if the bed and breakfast, country inns, etc. would be considered an agricultural or a commercial use on properties zoned A(R) in the rural area. Ms. Baker stated that the bed and breakfast would be considered a semi-residential use because it is owner occupied. A non-owner occupied business would be considered a commercial type use. There was a brief discussion regarding farms that have preserved land. Ms. Baker noted staff agrees with the Ag Advisory Board that farms having received compensation for land preservation are for agricultural purposes and the commercial use should not be considered on those properties. The County would defer to the easement documents to regulate the uses allowed on preserved properties.

Public Comment

- Selena Wilkes, 16311 Kendall Road, Williamsport, Maryland – Ms. Wilkes stated she is in favor of the proposed amendments and presented written comments for the record. She believes the proposed changes will help to eliminate some of the contradictions and ambiguities that currently exist and further promote tourism in the County. Ms. Wilkes expressed her opinion that the proposed amendments would allow banquet/reception facilities in "unconventional" settings both inside and outside the Growth Area boundaries as long as all lot and density requirements are met for the proposed facility. She believes the proposed amendments will provide the opportunity for the orderly development of these types of uses while providing safeguards that would prevent incompatibility with other uses in the area.

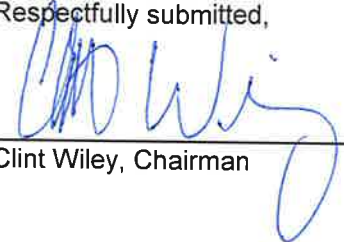
ADJOURNMENT

Chairman Wiley adjourned the meeting at 8:35 p.m.

UPCOMING MEETING

1. Monday, October 2, 2017, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, Maryland

Respectfully submitted,


Clint Wiley, Chairman