

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
October 2, 2017**

The Washington County Planning Commission held a regular monthly meeting on Monday, October 2, 2017 at 7:00 p.m. at the Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, Maryland.

Commission members present were: Chairman Clint Wiley, B.J. Goetz, Drew Bowen, Denny Reeder, and Jeremiah Weddle (arrived at 7:25 p.m.). 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; Washington County Department of Plan Review & Permitting - Tim Lung, 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.

The Chairman announced that the order of the agenda would be adjusted for this meeting.

MINUTES

Motion and Vote: Mr. Reeder made a motion to approve the minutes of the September 11, 2017 regular meeting as presented. The motion was seconded by Mr. Goetz and unanimously approved.

Motion and Vote: Mr. Goetz made a motion to approve the minutes of the September 18, 2017 public rezoning meeting as presented. The motion was seconded by Mr. Bowen and unanimously approved.

NEW BUSINESS

SUBDIVISIONS

Beaver Creek Fields (S-17-025)

Mr. Shaw presented for review and approval the Preliminary/Final plat for Lots 1-6 and Lots A and B for Beaver Creek Fields located along the north side of National Pike on 12.46 acres. The property is currently zoned A(R) – Agricultural Rural (15.3 acres) and RV – Rural Village (3 acres). Lots A and B contain existing dwellings. Lots 1-6 are proposed on the south side of Beaver Creek Road and each lot will have its own well and septic system. On May 3, 2017, the Board of Zoning Appeals granted an appeal (AP 2017-017) for the density requirement. The property is split by a zoning boundary and has a 1 dwelling unit/5 acre density limit in the A(R) zone and 1 dwelling unit/1 acre in the RV district. The BZA approved a density of 1 dwelling unit/1.91 acres. This subdivision is also dedicating land for future right-of-way for the extension of White Hall Road to National Pike. Forest Conservation requirements will be met via on-site retention and off-site retention at a 2:1 ratio. All agency approvals have been received except for Forest Conservation, which is currently being finalized.

Discussion and Comments: Mr. Fred Frederick of Frederick, Seibert & Associates, consultant for the applicant, briefly explained that a 50 foot right-of-way is being dedicated by the owner for the possible extension of White Hall Road in the future. He also noted there are three existing dwellings on the property. Real estate exemptions for Forest Conservation were taken for two of these dwellings. The third dwelling is located in an existing flood plain. Mr. Frederick said it was the applicant's desire to use the Forest Conservation Real Estate exemption for remaining lands as well. Mr. Frederick explained that all existing forest, the majority of which is in the floodplain, is being used as on-site forestation. The applicant has 2.4 acres of forest on Lappans Road that was previously approved for off-site retention of which 1.4 acres will be used for this project.

Mr. Reeder asked if the old stone house on the property will be retained. Mr. Frederick stated that the Planning Commission previously reviewed a demolition permit for that house; however, the applicant now has a new purchaser for the entire property who has decided to retain the stone house and sell it on its own 6 acre parcel.

Motion and Vote: Mr. Reeder made a motion to approve the preliminary/final plat for Lots 1-6 and Lots A and B of Beaver Creek Fields and to grant staff the authority to work with the applicant to resolve Forest Conservation requirements. The motion was seconded by Mr. Bowen and unanimously approved.

SITE PLANS

Atlantic Homes (SP-17-023)

Ms. Kelly presented for review and approval a site plan for Atlantic Homes located along the south side of West Oak Ridge Drive. The property is currently zoned HI (Highway Interchange). There is an existing dwelling, garage and sheds on the property. The property owner is proposing to establish an insurance business in the existing house. The site would be served by public water and public sewer. Nine parking spaces are required and nine spaces will be provided. There will be five employees. The hours of operation will be 8:00 a.m. to 5:00 p.m., Monday thru Friday. Proposed lighting and signage will be building mounted. Trash will be collected inside the house. The site is exempt from Forest Conservation requirements because there is no disturbance over 20,000 square feet. All agency approvals have been received with a conditional approval from the City of Hagerstown Sewer Department because a sewer

easement for a private line must be secured from the owner of the property through which the easement runs. The owner and the consultant are currently working with the City of Hagerstown to address this issue.

Motion and Vote: Mr. Bowen made a motion to approve the site plan contingent upon a signed agreement between the owner and the City of Hagerstown Sewer Department. The motion was seconded by Mr. Goetz and unanimously approved.

OLD BUSINESS

RZ-17-003 Downsville Pike Land, LLC Recommendation

Mr. Allen presented a map amendment request for property located at 10656 and 10662 Downsville Pike from RS (Residential Suburban) to HI (Highway Interchange). A public rezoning meeting was held on September 18, 2017 at the Washington County Court House at which time staff and the applicant presented information pertaining to the request and public comment was taken. The applicant claimed that there was a mistake in retaining the existing RS zoning on the site during the Comprehensive rezoning in 2012 due to the parcels location near the interchange, rezoning of nearby parcels to HI, traffic impacts from interchange traffic and that the subject parcels are no longer suitable for residential use because they have not recently been occupied. The applicant also proposed that there was a change in the character of the neighborhood citing the neighborhood as the corridor along Downsville Pike with similarly situated parcels and noted the zoning changes in that same corridor, approval of the Sheetz store site plan for a parcel across the street, increases in traffic and that the dwelling is no longer occupied as changes that have occurred. Mr. Allen reviewed the criteria that should be considered when analyzing change or mistake claims and remarked that zoning changes without actual development do not create change, the change of zoning on the interchange parcel is of no consequence because the parcel will never be available for development, the Sheetz store will be developed in accordance with the parcels zoning and an unoccupied dwelling does not constitute change. Six members of the public have submitted written or verbal testimony in opposition of the proposed rezoning citing issues related to traffic patterns, traffic volume, speed and pedestrian safety in the vicinity of the site, particularly on Halfway Boulevard.

Discussion and Comments: Mr. Goodrich explained that due to technical difficulties during the past week, minutes of the September 25th public rezoning meeting were unavailable prior to this meeting. However, a recording of the meeting was sent to all Planning Commission members for their review during the past week. All members, either present at the public meeting or who listened to the recording of the public meeting, are eligible to discuss and vote on the rezoning cases being discussed this evening.

In the discussion that followed some members expressed opinions that it is difficult to document that a change in character or that a mistake has occurred but noted that future use of the site for residential purposes would also be difficult especially since the dwellings are no longer occupied and there has been no apparent interest in residential use in the future. The Commission recognized the commercial uses in the area and the configuration of the Halfway Boulevard/Downsville Pike intersection.

Mr. Weddle arrived at 7:25 pm. He offered his opinion that the lack of residential occupancy may be an indicator that change is occurring.

The Commission discussed the complications of achieving access to the site since the reconstruction of the interchange and expansion of the Downsville Pike/Halfway Boulevard intersection. Commission members believed that redesign of access to the site to address safety concerns at the intersection and the limitations presented by the new configuration of the intersection may be better served by commercial development rather than residential.

Motion and Vote: Mr. Reeder made a motion to recommend approval of the map amendment request to the Board of County Commissioners. The motion was seconded by Mr. Goetz and unanimously approved.

RZ-17-004 Bluegrass Commercial, LLC and Michael & Kelli Scott Recommendation

Mr. Goodrich presented a map amendment request for property located at 21314 and 21338 Leitersburg Pike and 21385 Leiters Mill Road. The applicant is requesting the application of the RB (Rural Business) floating zone over the existing RV (Rural Village) zoning on 7.15 acres of land. The RB zone is a floating zone; therefore, the change or mistake rule does not apply. Commission members should follow the criteria set forth in the Section 5E4.b of the Zoning Ordinance when considering the establishment of the RB zone. Mr. Goodrich briefly reviewed these criteria. He clarified that in the original rezoning package, a plan was submitted showing retail/office/warehousing/wholesale uses on Parcels 131 and 173. However, during the public rezoning meeting, the applicant stated all three parcels would be used for office space either related to the existing business or general office use. Two individuals made comments during the public rezoning meeting stating concerns for traffic and general community appearance; no other written comments were received following the meeting.

Discussion and Comments: Mr. Bowen clarified that, if the rezoning is approved, a site plan would be required. Mr. Reeder made an inquiry regarding the expansion of the existing building and how much square footage would be allowed. Mr. Goodrich stated that the existing building is located on a parcel that is currently zoned RB. Setbacks and storm water management may be the limiting factors. The Zoning Ordinance specifies a maximum lot coverage of 65% in the Rural Business district; however, if the

building is redeveloped, the 65% may or may not apply because the coverage on the parcel may be already much larger than what is specified. He reminded Commission members that the use could expand onto the other parcels if the rezoning is approved. Mr. Wiley noted that during the public rezoning meeting, the applicant stated they are not interested in having any type of retail or wholesale business on the property. He also noted that the applicant is proposing to cut down the number of entrances onto the property. Mr. Wiley expressed his opinion that the proposal meets the requirements for the establishment of a Rural Business. Mr. Reeder believes the applicant is committed to providing screening and buffering that will enhance the site and the Rural Village of Leitersburg.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the map amendment request to the Board of County Commissioners because the application can meet the specified RB zoning requirements.. The motion was seconded by Mr. Weddle and unanimously approved.

RZ-17-005 BSM Big Pool, LLC Recommendation

Ms. Baker presented a map amendment request for property located at 11412 Tedrick Drive and 11079 Big Pool Road. The applicant is requesting the application of the RB (Rural Business) floating zone over the existing EC (Environmental Conservation) zoning on 2.24 acres of land. The applicant is proposing to expand the existing business on property immediately adjacent to the east. The proposed expansion would create better traffic flow on the site. Thirteen (13) additional truck parking spaces are proposed. A heavily vegetated buffer is proposed along the western boundary; existing mature vegetation will remain in place. A site plan was included in the submittal showing reconstruction of the convenience store and the restaurant area and the reconfigured traffic flow.

Discussion and Comments: Ms. Baker clarified that the request being considered is for the 2.24 acres where the applicant is proposing to install a new paved area and a new diesel canopy. The re-configuration of Parcel 33 could occur even if the rezoning is denied; a site plan would be required. Numerous written and verbal comments have been received, both in favor of and in opposition to the request.

Mr. Weddle expressed his opinion that the applicant is proposing better accommodations and a safer area for fueling. Mr. Wiley expressed his opinion that if the rezoning is approved, the Planning Commission could make recommendations for buffering and screening on the site that would address the concerns of neighboring property owners. Mr. Goetz expressed his opinion that AC&T typically provides a business setting that is clean and safe and provides for better traffic flow.

Mr. Reeder briefly discussed the concerns of citizens with regard to truck idling. Ms. Baker stated that the County does not currently have a noise ordinance. Maryland Department of the Environment would be responsible for air quality controls. Ms. Baker noted that the applicant, during their presentation at the public rezoning meeting, stated that the business was in place before any houses were built nearby. Members briefly discussed landscaping and buffering and the advantage of having additional truck parking if the rezoning is approved.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the map amendment request to the Board of County Commissioners as presented because it meets the requirements specified in the RB zoning district. The motion was seconded by Mr. Weddle and unanimously approved.

RZ-17-006 17119 Virginia Avenue LLC Recommendation

Mr. Allen presented a map amendment request for property located at 17109 Virginia Avenue from RS (Residential Suburban) to BG (Business General). A public rezoning meeting was held on September 18, 2017 at the Washington County Court House at which time staff and the applicant presented information pertaining to the request and public comment was taken. The applicant is claiming that a mistake was made in the current zoning of this property at the time of 2012 comprehensive rezoning of the Urban Growth Area. The applicant claimed in his presentation that the County made a mistake in the 2012 Comprehensive rezoning by not changing the existing RS zoning to BG because it failed to consider that the parcel is designated by the Land Use Map in the Plan as Commercial, it is surrounded on 3 sides by commercial zoning, it fronts on a heavily travelled road in a commercial corridor and these factors would make the parcel unsuitable for continued residential use.

Mr. Allen explained that the commercial character of the neighborhood around this property has been established for an extended period of time (generally before 2000) due to piecemeal rezoning requests. The car wash, which sits next to the subject site, was rezoned in 1992; the property containing Carmine's Italian Restaurant, was rezoned in 1998; and the property containing the Dollar General store was rezoned in 1981. There was also the rezoning of a parcel of land close to the site from ORT to IR recently. Mr. Allen reiterated comments made during the public meeting, including Mr. Goodrich's statement that rezoning can serve two objectives: 1) to follow existing trends or 2) to project and lead future land use changes. The house was actively being used as a residence at the time of the 2012 comprehensive rezoning and the owners did not request a change in the zoning at that time. One member of the public spoke in opposition of the rezoning request during the public meeting. She did not believe a mistake was made in the zoning noting that the house had been occupied since 1932. She also expressed her opinion that there were negative impacts in the area from all the commercial development that has occurred.

Discussion and Comment: Mr. Wiley stated that he has been past the property several times over the past week and the person who spoke in opposition of the rezoning request appears to be running a business out of their home. The Commission acknowledged the difficulty in the decision to retain the RS

- zoning in 2012 because the site was still an active residential use or to change it to BG to recognize the surrounding zoning and uses. However, with new ownership and all of the piecemeal rezonings in the area a commercial zoning would be appropriate.

Motion and Vote: Mr. Reeder made a motion to recommend approval of the request as presented to the Board of County Commissioners. The motion was seconded by Mr. Bowen and unanimously approved with Mr. Goetz abstaining from the discussion and the vote.

RZ-17-007 Text Amendment

Ms. Baker presented a text amendment for various articles and sections of the Washington County Zoning Ordinance pertaining to "Banquet/Reception Facilities, Bed and Breakfast, Boarding House and Country Inns". She briefly reviewed the proposed changes as discussed during the September 25th public rezoning meeting. One person spoke in favor of the proposed changes during the public meeting. Ms. Baker reiterated that uses on permanently preserved lands are dictated by the easement documents, not by zoning. Bed and Breakfast facilities are permitted on permanently preserved lands; however, wedding reception facilities, auctions, etc. are not currently permitted by language in the easement documents.

Discussion and Comments: Mr. Wiley stated that he is in favor of all the changes as presented. He believes this a great opportunity for tourism in the County.

Motion and Vote: Mr. Weddle made a motion to recommend approval of the text amendments as presented to the Board of County Commissioners. The motion was seconded by Mr. Goetz and unanimously approved.

RZ-17-009 A & W Plus, Inc. Recommendation

Mr. Goodrich presented a map amendment request for property located at 12408 Learning Lane (the former Conococheague Elementary School). The applicant is requesting to apply the RB (Rural Business) floating zone over the existing RV (Rural Village) zone on 11.74 acres of land. The applicant is proposing to use the existing building for an assisted living facility, which is a permitted use in the RB zone. If the assisted living facility is a success, the applicant is also proposing to construct an adult day care facility and medical offices that provide elder care related practices. The 65% limit for lot coverage would apply to the new construction. The contract for purchase of the property is contingent upon the rezoning of this property. During the public meeting, concerns were raised about the ability of the site to accommodate the proposed use with water and sewer facilities and traffic that could be generated. The applicant stated they are aware of those requirements and it is their intent to comply with all requirements if the zoning is changed. Mr. Goodrich reminded members of the criteria to be used when considering the establishment of an RB zoning district. Three people made comments during the public meeting and Mr. Goodrich briefly reviewed those comments.

Discussion and Comments: Commission members believe the proposed use would be a great re-use of an existing property. Mr. Goodrich stated that the Rural Business zoning could be removed from the property through a simple administrative process if the owner would no longer want it or the proposed use was unsuccessful. If the proposed assisted living facility does not come to fruition but the owner proposes another use, the new proposed use would come back to the Planning Commission for its review at which time the Commission could require a new public information meeting if the new use is determined more intense.

Motion and Vote: Mr. Bowen made a motion to recommend approval of the map amendment request as presented, to the Board of County Commissioners because it could meet the requirements for the RB district stated in the Zoning Ordinance. The motion was seconded by Mr. Reeder and unanimously approved.

-OTHER BUSINESS

Update of Staff Approvals

Mr. Lung reported the following for the month of September: Land Development/Permit review – 10 entrance permits; 1 flood plain permit; 13 grading permits; 1 non-residential ag certificate; 1 non-residential commercial permit; 1 utility permits; Land Development Plan Review – 1 preliminary subdivision plats (Westfields); 2 site-specific grading plans (Lager Drive, Columbia Gas); 5 standard grading plans; 3 storm water management concept plans; 1 preliminary consultation at Carriage Hills Apartments; 2 preliminary plats with site plans for Rosewood PUD; 1 site plan for a solar energy generating facility on Leitersburg/Smithsburg Road; 1 subdivision replat; Approvals issued: 1 residential subdivision replat; 3 Forest Stand Delineation, 1 site specific grading plans, 4 site plans (Falcon Air Service hangar, Patriot Federal Credit Union, Sheetz at 632/I-70, Atlantic Auto on Miller's Church Road) and 4 site plan red-line revisions

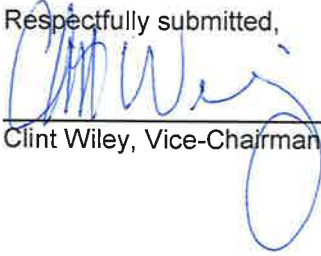
UPCOMING MEETINGS

1. Monday, November 6, 2017, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, Maryland

ADJOURNMENT

Mr. Goetz made a motion to adjourn the meeting at 8:20 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,



Clint Wiley, Vice-Chairman