

**WASHINGTON COUNTY PLANNING COMMISSION  
PUBLIC REZONING MEETING  
AND REGULAR MEETING  
March 5, 2018**

The Washington County Planning Commission held a public rezoning information meeting and regular monthly meeting on Monday, March 5, 2018 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, Drew Bowen, Robert Goetz, 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; Washington County Department of Plan Review & Permitting – Tim Lung, Director.

**CALL TO ORDER**

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

**PUBLIC REZONING MEETING**

**RZ-18-001 – Thomas, Bennett & Hunter**

**Staff Presentation**

Mr. Allen presented for public review and comment a map amendment application to rezone a 19.37 acre parcel of land located at 11661 Hopewell Road from HI – Highway Interchange to IG – Industrial General. He briefly reviewed the criteria listed in Article 27.3 of the Zoning Ordinance which the Commission should consider in making its decision for a piecemeal rezoning. Mr. Allen noted that the Cedar Lawn election district has grown more rapidly than the County as a whole. The site is served by public water and sewer is split on the site. Fire and Emergency Services are provided by the Volunteer Fire Company of Halfway. No APFO mitigation would be required because the proposed zoning would not generate any students. He briefly reviewed present and future transportation patterns in the vicinity of the proposed site. There are currently projects listed near the site in the Capital Improvements Program (CIP) to extend Halfway Boulevard to MD 63/Greencastle Pike. There is no public transit service to the site; however, the Hopewell Express shuttle service, provided by the Community Action Council, runs from downtown Hagerstown to Hopewell Valley businesses from 6 a.m. to 8 p.m. Monday through Friday. Access to the site is via a gated macadam driveway from Hopewell Road. Mr. Allen noted that topography of the site is open, wooded and rocky with 3.85 acres of the existing 7.63 acres of forest currently in a permanent easement. There is a mixture of commercial and industrial uses in the vicinity of this site such as Purina Mills, AC & T, Pilot, Freightliner and Performance Pipe. A large portion of property located in the northern Hopewell Valley is zoned IG (Industrial General) while southern Hopewell Valley is currently zoned HI (Highway Interchange). There are 3 existing historic sites within ½ mile of the property.

Mr. Allen gave a brief description of the IG zoning district which allows heavy industrial uses that may require extensive measures to allow for compatibility with adjacent land uses. The 2002 Comprehensive Plan Land Use Designation for this area is Industrial Flex. Mr. Allen explained that one of the criteria to consider during a piecemeal rezoning is the "change or mistake" rule. The applicant has the burden of proof to show a substantial change in the character of the neighborhood since the last comprehensive rezoning (2012) or that a mistake was made in the original zoning of the property. In this case, the applicant is claiming there was a mistake in the zoning of the property in 2012. Mr. Allen briefly reviewed the applicant's reasons supporting the "mistake". He pointed out that the property has been zoned HI or HI-1 for more than 20 years and as recently as 2016 a development plan was recorded for a tenant to occupy this site as it is currently zoned. Failure of that tenant to secure a contract for the proposed use is the reason the site was not developed.

Mr. Allen briefly discussed the differences in the zoning designations of HI, IG and IR (Industrial Restricted). One important difference is the land use intensity. The HI zoning district is intended for light industrial uses or commercial activities that "promote safe and efficient operation of the interchange", the IR zoning district is intended for low intensity manufacturing and assembly processes that may not require extensive measures to allow compatibility; and the IG zoning district is intended for manufacturing, processing and other heavy industrial uses which may require extensive measures to allow compatibility.

Staff recommends that when considering this application, all applicable land uses should be considered if the IG zoning district is applied to this property. Staff believes there is minimal evidence of a mistake in the current zoning of the property. Mr. Allen noted that rezoning the property from HI to IR would offer less compatibility issues than HI to IG as requested. Staff also recommends considering the consistent past separation of the HI and IG zoning district over the past 20 years due to potential effects that a heavy industrial use could have on land use and transportation patterns in the vicinity of the I-81 interchange.

**Discussion and Comments:** Mr. Bowen asked what type of uses staff is concerned about with the IG zoning. Mr. Allen stated there is concern with regard to the intensity of some of the permitted uses in the IG zone given the property's proximity to the interchange.

### Applicant's Presentation

Mr. Jason Divilbiss of Divilbiss & Wilkinson, 13424 Pennsylvania Avenue, Hagerstown, is legal counsel for the applicant. He presented applicant's exhibit #1, an aerial map showing the Hopewell Valley targeted economic development area showing the existing uses in the area and a chart showing the current uses permitted within the zoning districts. He noted that the uses in the IG district and the IR district are very similar in nature and all of the permitted uses in the IR district are also permitted within the HI zoning district. It is the applicant's contention that a mistake was made in the 2012 comprehensive zoning of this property because a number of the existing uses already existed, the trend of Hopewell Valley was industrial in nature, and the land use designation delineated in the 2002 Comprehensive Plan is Industrial Flex. It was also noted that the property is adjacent to an active rail line, it is within close proximity to the Interstate, and there is only one property separating it from the existing IG areas.

### Discussion and Comments:

Mr. Goetz expressed his opinion that there is a distinct line between the HI and the IG districts and asked why the applicant is requesting the IG zone when the uses between the HI and IR are so similar. Mr. Divilbiss reiterated that the majority of uses permitted in the IG district are also permitted in the IR district. The most intensive uses permitted in the IG district are not currently present in the district with the exception of Purina Mills which is located in the HI district.

Mr. Bowen expressed his opinion that if the map amendment application is approved, the Commission should consider connecting the two IG districts during the Comprehensive Plan Update so there is not an enclave.

There were no citizens present to make public comment.

### MINUTES

**Motion and Vote:** Mr. Bowen made a motion to approve the minutes of the February 5, 2018 public rezoning meeting and regular meeting as presented. The motion was seconded by Mr. Kline and unanimously approved with Mr. Goetz abstaining from the vote.

### -OTHER BUSINESS

### Update of Staff Approvals

Mr. Lung reported the following for the month of February: Land Development/Permit review – 20 entrance permits; 2 floodplain permits; 5 utility permit; 29 grading permits; 2 non-residential construction permits; Land Development Plan Review – 2 subdivision replats, 1 preliminary/final subdivision plat, 2 simplified plats, 5 site plans (Interstate Battery, Mountinside Teleport, Middletown Valley Bank, HCC parking lot addition, Bowman Newgate Phase 3), 3 site specific grading plans, 4 grading plans, 2 storm water concept plans, 1 forest stand delineation and 1 final subdivision plat. Approvals issued: 1 simplified plat, 1 subdivision replat, 1 final subdivision plat for Westfields, Section 6C, and 1 site plan for Atlantic Homes.

### Initial CIP Presentation

Mr. Goodrich stated that next month he will present the proposed FY 2018-2027 CIP for review and discussion. The Commission will be asked to make its recommendation to the Board of County Commissioners for the CIP's consistency with the County's adopted Comprehensive Plan.

### Pending Legislation

Mr. Goodrich gave a brief summation of several bills that are being discussed in the Senate:

- Allow establishment of agricultural land preservation fee
- Lengthen recertification of ag preservation program from 3 to 5 years
- Adopt a State definition of agri-tourism – this would not override local zoning laws
- Change the Bay restoration fund and what it can be used for
- On-site sewage disposal systems that would require upgrading in some areas
- Changes to the Forest Conservation Act – define priority retention areas and increase mitigation to a 1 to 1 ratio
- Changes to Tiers 3 and 4 of the septic bill – create exemptions and criteria to define other areas in Tier 3

### Proposed Rezoning Schedule Changes

Mr. Goodrich announced that on March 13<sup>th</sup>, the Board of County Commissioners is scheduled to discuss the schedule upon which rezoning applications will be accepted as part of its initiative to be more customer friendly. He noted that the Commissioners are considering an application submittal process on an as-needed basis. The Planning Commission previously discussed this topic and did not believe that a change was currently needed in the schedule.

### Employee Policy Changes

Mr. Goodrich explained that the County Commissioners have been revising old policies and adopting new policies for County employees, which also includes members of appointed Boards and Commissions.

Training on the policies will be scheduled in the near future for all Board and Commission members. Recently adopted policies include Anti-Harassment and a Tobacco Free Campus.

Mr. Goodrich reminded Commission members that the Financial Disclosure statements will soon be distributed and need to be completed and returned by mid-April.

#### Comprehensive Plan Update

Ms. Baker reminded Commission members that the Sensitive Areas and Mineral Resources elements were previously approved by the Commission. A copy of the draft Historic Resources element was included in this evening's agenda packet for the Commission's review. She briefly reviewed contents of the element which include tax credits, State programs and funding for historic resources, heritage tourism, threats and challenges to preserving historic resources, preserving the landscapes and scenic scapes of the historic resources. Staff will be presenting the recommendations, goals and objectives at the next meeting. Staff is currently working on the Community Facilities element, which should be ready for the Commission's review in April. Staff is also working on the Economic Development and Housing element.

#### General Discussion

The Planning Commission briefly discussed the site of Purina Mills and its zoning designation of H1. There are numerous reasons this site has this zoning designation which does not necessarily match the intensity of the use on the site. Members also discussed other uses that are permissible in the IG district that may be more intensive. Staff reminded the Commission that it cannot assume the applicant is proposing to move to this location and continue its current use on this site. Mr. Lung noted that a concrete business would be a special exception use in both the IR and the IG zoning districts. The Commission discussed making its recommendation for the IR zoning instead of the IG zoning; however, Ms. Baker pointed out that the applicant must make its case based on a change in the neighborhood or a mistake in the original zoning. Mr. Goodrich advised members to make discussions regarding the IR zoning versus the requested IG zoning and the reasons why the Commission believes the IR district is a better choice part of its recommendation to the BOCC. Making a recommendation for a different zoning designation than the applicant requested does not give the public the opportunity to make comments.


#### UPCOMING MEETINGS

1. Monday, April 2, 2018, 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. Kline and so ordered by the Chairman.

Respectfully submitted,



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Clint Wiley, Chairman