

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
April 2, 2018**

The Washington County Planning Commission held its regular monthly meeting on Monday, April 2, 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, Robert Goetz, Denny Reeder, and Jeremiah Weddle. Staff members present were: Washington County Department of Planning & Zoning - Stephen Goodrich, Director; Jill Baker, Chief Planner; Eric Seifarth, Rural Preservation Administrator; Chris Boggs, Land Preservation 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.

OLD BUSINESS

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

Ms. Baker briefly reviewed the map amendment application submitted by Thomas, Bennett & Hunter to rezone 19.37 acres of land located at 16611 Hopewell Road from HI (Highway Interchange) to IG (Industrial General). The applicant is claiming there was a mistake in the zoning of the property based on the following: the number of existing similar uses already in place when the UGA rezoning was adopted, the trend of Hopewell Valley is industrial in nature, the 2002 Comprehensive Plan adopted by the County designated this area as Industrial Flex, the property is adjacent to an active rail line, and it is within close proximity to an interchange. During the applicant's presentation, a comparison was made between the principal permitted uses in the IR (Industrial Restrictive) district that are also permitted in the HI district. The applicant pointed out that there are already industrial type uses permitted by right in the HI district. Ms. Baker reiterated that the applicant is requesting the IG zoning designation but using the IR as a comparison between the two districts and making the linkage from the HI to the IG.

Discussion and Comments: There was a brief discussion regarding the intended use of the property, which Ms. Baker reminded members should not be considered during the rezoning process. The Commission's decision should be based on the knowledge that all uses allowed in the proposed district could potentially locate on this property.

Mr. Reeder asked if this would be considered "spot zoning". Ms. Baker explained that because there is a small portion of the property that is contiguous to a parcel already zoned IG this would not be considered "spot zoning".

Mr. Goetz expressed his opinion that Thomas, Bennett & Hunter maintains a clean, neat appearance at its current location in the City of Hagerstown and he believes they would continue the same quality appearance at this location. Mr. Wiley concurred with this comment.

There was a brief discussion regarding other properties within close proximity and the possible need to rezone these properties in the future for industrial uses. Mr. Goetz believes that the surrounding parcels should be considered during the next comprehensive plan process.

Members expressed their opinion that "mistake" is not the correct terminology; however, the term is the operative word from Maryland law. There are many factors that influence a decision during a comprehensive rezoning that are only focused on this "point in time" and a more generalized area, not a specific piece of property.

Motion and Vote: Mr. Goetz made a motion to recommend approval of the map amendment request to the Board of County Commissioners. This recommendation is based on acceptance of the applicant's claim that there was a mistake made during the 2012 comprehensive zoning because of the existing predominant industrial nature of Hopewell Valley and the reasonably foreseeable future trend of industrial use intensification was not sufficiently taken into consideration when the HI zone was assigned. The Planning Commission also cited the existing uses on adjacent parcels, the land use designation delineated in the Comprehensive Plan of Industrial Flex, an active rail line located adjacent to this property and the close proximity to the interstate to support the recommendation. The motion was seconded by Mr. Weddle and unanimously approved.

NEW BUSINESS

MINUTES

Motion and Vote: Mr. Weddle made a motion to approve the minutes of the March 5, 2018 public rezoning meeting and regular meeting as presented. The motion was seconded by Mr. Goetz and unanimously approved.

LAND PRESERVATION

Approval of Ag Districts

Mr. Seifarth explained that ag districts began 40 years ago with the Maryland Ag Land Preservation Program. Ag districts in the program were a five year term and an interim step that qualified farmers to apply for permanent easements at a later time. There are specific criteria that must be met to establish a district, which includes soil qualifying capabilities and size. In 1991, staff worked with a 33 member blue ribbon panel to enhance the program. These efforts generated the idea of increasing the term from five years to ten years and providing property tax credits. In 2009, the State of Maryland decided to no longer participate in the district program and in 2012 turned the districts over to their respective county.

Mr. Seifarth further explained that the Ag Board has vetted the following ag districts for compliance with specific criteria including that which was discussed above. It is the Planning Commission's responsibility to review these properties and determine if they are consistent with the Comprehensive Plan [is the district outside the Urban Growth Area, is water or sewer service available to the property, etc.]. If the districts are approved by either the Ag Board or the Planning Commission, they will be presented for approval to the Board of County Commissioners in a public hearing.

Mr. Boggs presented the following districts which meet the specified criteria and consistency with the Comprehensive Plan for the establishment of an agricultural land preservation district:

- Jeremiah and Janelle Weddle, 9320 Garis Shop Road (AD-16-014)
- Beta Management Trust, 16026 Spade Road (AD-17-006)
- Curvin and Glennis Eby, 19534 Reidtown Road (AD-18-005)
- Donna McCauley, 16030 Wishard Road (AD-18-008)
- Page and Ronda Houser, 16517 Shaffer Road (AD-18-009)
- Bragunier Farms, Inc., 13040 Blairs Valley Road (AD-18-010)
- David Forcino, 13215 Smithsburg Pike (AD-18-011) [meets all qualifications if the Terry and Deborah Roane property is approved because it is less than 50 acres in size]
- Terry and Deborah Roane, 13201 Sleepy Creek Lane (AD-18-012)
- Donald and Linda Ebersole, 16620 Kendle Road (AD-18-014)
- Charles (Jr.) and Denise Grab, 9705 Downsville Pike (AD-18-016)
- Donald Houser, 9034 Downsville Pike (AD-18-017)
- Neal and Kathryn Corwell, 11702 Rock Meadow Road (AD-18-021)
- Houser's Produce Farm, Inc., Shaffer Road (AD-18-023)

Motion and Vote: Mr. Goetz made a motion to approve the Weddle ag district based on its soils and size qualifying capabilities and its consistency with the Comprehensive Plan. The motion was seconded by Mr. Reeder and unanimously approved with Mr. Weddle abstaining from the vote.

Motion and Vote: Mr. Goetz made a motion to approve the remaining 12 ag districts based on soils and size qualifying capabilities and consistency with the Comprehensive Plan. The motion was seconded by Mr. Reeder and unanimously approved.

Mr. Boggs presented the following ag district which he pointed out does meet the soil and size qualifying capabilities; however, it is not consistent with the Comprehensive Plan because it is inside the Urban Growth Area and has the capability to hook up to public water and public sewer facilities. The Ag Board approved the property as an ag district based solely on its agricultural capabilities. Mr. Boggs noted that the land owners wish to keep the property as an agricultural use for at least the next ten years. Mr. Seifarth noted that the Maryland Ag Land Preservation Foundation will most likely not approve this property for a permanent easement in the future because it is inside the UGA and has public water and sewer capabilities.

- Robert, Clyde and Daniel Ebersole, 16438 Kendle Road (AD-18-013)

Discussion and Comments: Mr. Wiley asked why this property was given an RS (Residential Suburban) zoning classification instead of an agricultural zoning. Ms. Baker stated that during the Comprehensive rezoning of the UGA, the property owners requested that the property be included in the UGA. At that time, this property was under contract as part of a proposed development.

Mr. Weddle expressed his opinion that the owners want to take advantage of the ag tax credits until such time as the housing market takes an up-turn. Mr. Wiley concurred with this opinion. There was a brief discussion with regard to the property being taken out of the growth area. Members expressed their opinion that the owners should request that the property be taken out of the growth area and rezoned with an agricultural zoning before requesting the ag tax credits.

Motion and Vote: Mr. Reeder made a motion to deny the ag district request for the Ebersole property because it is inside the Urban Growth Area, has the capability for public water and sewer facilities, and is inconsistent with the Comprehensive Plan. The motion was seconded by Mr. Goetz and unanimously approved.

Policy Discussion

Mr. Seifarth explained that approximately 15 years ago, the Planning Commission gave staff the authority to approve ag districts that meet the specified criteria as previously discussed this evening. In the case of requests that did not meet the criteria, staff would present them to the Planning Commission for their

approval or denial. Staff is seeking the Commission's direction to determine if this policy should be changed or remain the same.

Discussion and Comments: Mr. Wiley expressed his opinion that the existing policy provides an efficient, timely, customer-friendly process and should not be changed.

Motion and Vote: Mr. Reeder made a motion to re-affirm the current policy as stated by Mr. Seifarth. The motion was seconded by Mr. Goetz and unanimously approved.

Agricultural Land Preservation Districts Ordinance

Mr. Weddle abstained from all discussion and the vote on this agenda item.

Mr. Seifarth stated that the Ag Land Preservation District Ordinance is being amended including definitions and minor changes to the extension of district agreements. He explained the proposed changes in Section 4.01 and Section 9.05(c) of the Draft document. After a brief discussion, the Commission recommended that the language in both of these sections should not be changed.

Motion and Vote: Mr. Goetz made a motion to approve the text of the Ordinance as discussed. The motion was seconded by Mr. Reeder and unanimously approved.

FOREST CONSERVATION

Department of Natural Resources Annual Review

Mr. Goodrich reported that the annual review by DNR was held over two days for the County's Forest Conservation program. He noted that several non-compliance issues are being addressed with much success seen over the past year in gaining compliance with the Ordinance and approved conservation plans. DNR has requested that the County analyze and report to them that the payment-in-lieu funds received from developers is producing the equivalent amount of mitigation.

Another issue discussed with DNR was solar generating systems and whether these systems require a certificate of public necessity and if the Forest Conservation Ordinance requirements apply to solar projects. Mr. Goodrich noted that there was some confusion over this issue and several of the solar projects in Washington County received exemptions from the forest conservation requirements. This issue has now been clarified and these projects should have complied. Mr. Goodrich noted that a certificate of public necessity indicates that the Public Service Commission has considered forest conservation and have implemented the appropriate mitigation; however, if there is not a certificate when the County receives the plan, forest conservation requirements should be addressed. There was a brief discussion regarding the PSC's authority overriding the local jurisdiction's authority when considering these issues. Further clarification is pending.

-OTHER BUSINESS

Update of Staff Approvals

Mr. Lung reported the following for the month of March: Land Development/Permit review – 16 entrance permits; 1 floodplain permits; 17 grading permits; 2 non-residential addition/alteration permits; 1 non-residential construction permit; and 2 utility permits; Land Development Plan Review –1 preliminary/final subdivision plat for a single residential lot; 1 simplified plat; 5 site plans; 1 red-line revision for a previously approved site plan; 1 ordinance modification to create a lot with public road frontage; 2 storm water concept plans; 4 standard grading plans; 3 standard storm water plans; 1 traffic impact study. Approvals issued: 2 subdivision plats, 1 subdivision replat, 2 site plan red-line revisions; 1 town plan (Williamsport) and 2 site specific grading plans.

CIP Recommendation

Mr. Goodrich presented the proposed Capital Improvements Program for FY 2019-2028. The Planning Commission is responsible for reviewing the CIP and determining its consistency with the Comprehensive Plan. The Commission should ensure that projects listed in the CIP support or encourage growth within the growth areas identified in the Comp Plan and not in areas where preservation is the priority. Examples of these types of projects include Eastern Boulevard, Professional Boulevard, the Professional Boulevard Bridge, etc. The Planning Commission reviewed several selected pages from the Draft CIP showing a summary of planned projects and detail sheets for projects located in the UGA.

Motion and Vote: Mr. Reeder made a motion to recommend approval of the Capital Improvements Program to the Board of County Commissioners. This recommendation is based on a review of the CIP which supports and encourages growth within the growth areas and is therefore consistent with the Comprehensive Plan. The motion was seconded by Mr. Weddle and unanimously approved.

Comprehensive Plan Update

Ms. Baker reported that work is continuing on the Community Facilities element of the Comp Plan and should be ready for presentation to the Commission at its May meeting. She presented the Historic Resources recommendations and noted they are broken down as short-range, medium-range and long-range goals.

Consensus: By consensus, the Planning Commission adopted the Historic Resources element recommendations and goals.

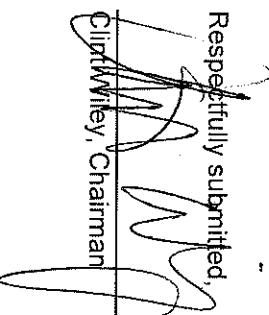
UPCOMING MEETINGS

1. Monday, May 7, 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 9:05 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,



Clint Wiley, Chairman