

**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING
PUBLIC INFORMATION MEETING
August 5, 2019**

The Washington County Planning Commission held a public information meeting and its regular monthly meeting on Monday, August 5, 2019 at 7:00 p.m. at the Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, MD.

Commission members present at the meeting were: Clint Wiley, Denny Reeder, BJ Goetz, Jeremiah Weddle and Ex-officio County Commissioner Randall Wagner. Staff members present were: Washington County Department of Planning & Zoning: Stephen Goodrich, Director; Jill Baker, Deputy Director; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting: Ashley Holloway, Director; and Lisa Kelly, Senior Planner.

CALL TO ORDER

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

PUBLIC INFORMATION MEETING

RZ-19-005 – Alcohol Production Facilities Text Amendment

Staff Presentation

Ms. Baker presented a proposed text amendment to the Washington County Zoning Ordinance for Alcohol Production Facilities. She noted that the Zoning Ordinance currently contains uses for farm wineries, commercial wineries, limited commercial wineries and farm breweries, commercial breweries and limited commercial breweries. New legislation from the State of Maryland includes distilleries as another type of alcohol production facility being offered through the manufacturing licenses. The proposed amendment will help consolidate and streamline the definitions and permitted locations for alcohol production facilities as a whole rather than associate the uses with specific manufacturing licenses that are subject to change during each legislative session. Farm based alcohol production facilities will require the use of ingredients that are produced on the site.

Ms. Baker briefly reviewed the areas throughout the County where these types of alcohol production facilities would be permitted. Regular alcohol production facilities would be a special exception use in the rural areas including the A(R), EC, P and RV districts and inside the growth area in the BL district. They would be a permitted use in the BG, IR, and IG districts. The farm-based alcohol production facilities would be permitted in the A(R), EC, P and RB zoning districts and a special exception use in the RV zoning district.

Public Comment

- Dan Spedden, President of Hagerstown/Washington County Convention and Visitor's Bureau, 41 Mealy Parkway, Hagerstown – Mr. Spedden stated that wineries, breweries and distilleries are currently very popular in the travel industry and becoming very commonplace in the cities. He noted that the tourism economy in Washington County is a \$260 million market annually with the number one business being the food and beverage industry. Mr. Spedden believes these facilities will enhance the economy in Washington County.
- Selena Wilkes, Elmwood Farm Bed and Breakfast, 16311 Kendall Road, Williamsport – Ms. Wilkes stated that Elmwood Farm is located in a residential area; however, she believes that an alcohol production facility would be an added benefit as an accessory use to her business and would boost tourism and economic development in the County. She expressed her opinion that the alcohol farm-based production facilities should be permitted in the residential areas as a special exception use.
- Nathan Kraft, 5513 Mt. Carmel Church Road, Keedysville – Mr. Kraft supports the proposed text amendment. He owns a 42 acre farm (Pathfinder Farm) on which he would like to grow crops and produce alcohol for sale. He expressed his opinion that wineries, breweries, and distilleries should be a special exception use in residential areas. He believes that people want an "experience" rather than going to a store.
- Kevin Atticks, Grow and Fortify, 1950 Far Out Lane, Sparks – Mr. Atticks stated that there is incredible growth and diversification in the tourism industry. He noted that the majority of visitors are coming from more than one hour way. Mr. Atticks gave two suggestions for the proposed text amendment. First, he believes there should be a path (i.e. special exception) that would allow

these facilities in any zoning district; there should not be any zoning districts excluded. Second, he believes there should be a provision to allow off-site production and discussed various factors that could contribute to a producer needing the resources of others. Mr. Atticks briefly discussed the issue of sensitive crops being sprayed from adjacent properties. He believes that all property owners have the right to use all of their property and education of all agricultural crop producers would be the key in avoiding harm to other property owners' crops. Mr. Atticks is opposed to any buffers being implemented.

- Jason Divelbiss, 11125 Bemisderfer Road, Greencastle – Mr. Divelbiss believes the alcohol production facilities would be an economic benefit for the County. He expressed his opinion that these types of facilities should be permitted in the urban area residential zoning districts as a special exception. The special exception process would provide a way to make sure the property is appropriate for this type of use. He pointed out that the urban area residential zoning districts already allow for several commercial uses by special exception. Mr. Divelbiss noted that many residential properties will not be able to attain a State alcohol manufacturing license.

Discussion and Comments

Mr. Weddle asked members of the audience questions about growing grapes and the life expectancy of grapes. He expressed his concern with regard to spraying crops (i.e. soybeans) on adjoining properties and the harmful effects these sprays (Dicamba) could have on grapes. Mr. Atticks noted he has talked to the Farm Bureau regarding these concerns and strictly from a land use perspective, the proposed text amendment is concentrating on the land use and not the specific type of crops that can be grown. Mr. Weddle expressed his opinion that these problems will arise in the future and he believes now is the time to address them. He believes that there should be mandatory setbacks associated with the more intensive operation. Placing the setbacks on a soybean farmer would create a hardship for that farmer. Mr. Atticks responded that a limitation such as this would “unilaterally give deference to existing grain farmers over new agriculture”. Secondly, this discussion is on a commercial product (Dicamba) being sprayed which is part of a national controversy because of its propensity to drift and kill everything around it. Ms. Baker stated that while she understands Mr. Weddle’s concern, it is her opinion that setbacks would have to be placed on all agricultural properties, not just new agricultural uses. Setbacks would be based on the type of crop you are growing each year and there would be no way to monitor or enforce this type of regulation.

- Yvonne Ford, 12840 Red Heifer Winery Lane – Ms. Ford noted that regulations have already been established by the Environmental Protection Agency regarding this issue.

WS-19-002 Town of Smithsburg Water & Sewerage Plan Amendment

Staff Presentation

Mr. Goodrich presented an application for amendment to the Water and Sewerage Plan for the Mayor and Council of the Town of Smithsburg. The first part of the application is a request to enlarge the sewer service boundary of the Smithsburg waste water treatment plant to coincide with the growth area boundary of the Town of Smithsburg and Washington County. This would include 12 parcels of land, three of which were recently annexed into the Town of Smithsburg. All 12 parcels are located east of the intersection of MD Routes 64 and 77. The second part of the request is to change the service priority designation of all 12 parcels to S-1 (indicating sewer service is existing). Mr. Goodrich gave a brief explanation of the various service priority designations.

Mr. Goodrich noted that all properties are identified in Smithsburg’s Comprehensive Plan in the Town’s municipal growth element which identifies properties which could potentially be annexed into the Town. Expanding the sewer service area is consistent with both the County’s and the Town’s Comprehensive Plans. Mr. Goodrich explained that none of the 12 properties meet the criteria for an S-1 designation because no public sewer service is currently available nor are there concrete plans for construction of service in the near future. Staff recommends that the 3 parcels that were recently annexed should be given the S-3 designation (sewer service is programmed). Mr. Goodrich explained why this would be the appropriate designation. The S-5 designation (service is planned for the future) would be appropriate for the remaining parcels included in this application. The S-5 designation does not eliminate the continuing use of on-site septic systems for the 7 parcels that currently have dwellings.

Citizen Comment

- Randy Dick, representing the Mayor and Council of the Town of Smithsburg – Mr. Dick stated that the parcels that were recently annexed into the Town are owned by Cloverly LLC. A public hearing

is scheduled for a mixed use zoning on the property. He noted that public water and sewer are available for this development. Mr. Dick stated that the Town supports staff's recommendations as presented.

- Doug Leather, 23036 Foxville Road, Smithsburg – Mr. Leather supports the County's recommendation for the S-5 designation on the properties that were not annexed into the Town.
- Eddie Brown, 12213 Cloverly Farm Lane, Smithsburg – Mr. Brown stated that he was representing the residents of Cloverly Farm Lane, all of whom support the County's recommendation for the S-5 designation for their properties. They do not want to be forced to hook up to sewer.

The public information meeting concluded at 8:10 p.m.

-NEW BUSINESS

MINUTES

Motion and Vote: Mr. Reeder made a motion to approve the minutes of the July 8, 2019 meeting as presented. The motion was seconded by Mr. Weddle and unanimously approved with Mr. Goetz and Commissioner Wagner abstaining from the vote.

PRELIMINARY CONSULTATION

Cascade Towne Center Phase IA [PC-19-001]

Mr. Holloway presented for review and comment a preliminary consultation for 33 proposed semi-detached townhome lots on 4 acres of land located along both sides of North Boyd Street in Cascade (former Ft. Ritchie site). The property is currently zoned SED (Special Economic Development). He noted that these townhomes would be constructed where 36 townhomes were previously located and recently demolished. Several zoning issues have been addressed through the Board of Zoning Appeals.

Consensus: By consensus, the Planning Commission has no objection to the concept plan and the developer may move forward in the site plan process.

SITE PLANS

Leitersburg Ruritan Park [SP-19-007]

Ms. Kelly presented for review and approval a site plan to construct a proposed 12,000 square foot community center on a 10.26 acre parcel located along the southeast side of Leiter Street and the east side of Leitersburg-Smithsburg Road. The property is currently zoned RV (Rural Village). The building height will be 18 feet. Sidewalks will be located on two sides of the building. An existing small building with canopy and gravel parking lot will remain along with a basketball court and a sand volleyball court. An existing entrance onto Leiter Street will provide access to the site. The hours of operation will be 7:00 a.m. to 8:00 p.m. April through September and 8:00 a.m. to 5:00 p.m. October through April. There will be one or two employees. Parking required is 37 spaces and 42 spaces will be provided. An existing well and septic will serve the new building. Lighting will be building mounted with pole lights in the parking lot. No new signage is proposed. Solid waste will be handled via a dumpster and compactor. The existing trees on-site will remain. Forest Conservation requirements will be met by paying the fee-in-lieu in the amount of \$3,763.58. All agency approvals have been received.

Motion and Vote: Mr. Reeder made a motion to approve the site plan as presented. The motion was seconded by Mr. Weddle and unanimously approved with Mr. Goetz abstaining from the vote.

US MD5048 Green Hill [SP-19-010]

Ms. Kelly presented for review and approval a site plan for a proposed 195 foot monopole commercial communications tower [with 15 antennas] on 139 acres located south of Wagaman Road and west of Garis Shop Road. The property is currently zoned A(R) – Agricultural Rural. The tower will service AT&T and will have space available to locate other carriers. The proposed facility will consist of one 16 foot long and 4 foot wide concrete equipment pad within a 40 foot by 50 foot fenced compound. An eight foot chain link fence with gate will surround the compound. The structure will not support lights or signs unless required for aircraft warning. If an antenna is no longer used for telecommunications purposes for a continuous one year period it will be removed from the tower at the owner's expense. A lane from Wagaman Road will access the site. No landscaping, employees or public facilities are required for the site. All agency approvals have been received.

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

Update of Staff Approvals

Mr. Holloway presented the following update for July: Land Development – 8 inspection and maintenance agreements, 4 red line revisions, 8 standard grading plans, 4 subdivision replats, 4 adequate public facilities plans, 2 public works agreements (simplified plats), and 2 storm water management concept plans; Permits – 20 grading permits, 19 entrance permits, 2 non-residential addition/alteration permits, 6 utility permits, 1 non-residential ag certification, and 1 non-residential construction permit.

Discussion of Solar Energy Generating Systems

Mr. Goodrich began with a brief history of solar energy and its gaining popularity over the past several years. In 2004, State legislation was adopted called the “Renewable Energy Portfolio Standard”, which captured the economic, environmental, fuel diversity and security benefits of renewable energy. That legislation also established a market in the State of Maryland for creating renewable energy credits to buy and sell from energy producers like solar farm developers with the intent of lowering the cost of electricity in the State of Maryland. The original legislation created a goal of 25% of the electricity generated in the State come from renewable resources (solar, wind, etc.). In 2017 the legislation was revised which increased the goal to 50%.

Mr. Goodrich noted that an application was submitted to and approved by the Board of Zoning Appeals to establish a solar energy generating system in the Cearfoss area several years ago. Through a series of appeals by neighboring property owners and the County, it was determined by the Maryland Court of Appeals that the County’s local zoning regulations could be overruled by the Public Service Commission. However, State law allows the local government to participate with the PSC during local public hearings. Ms. Baker stated there is a misconception that no County ordinances govern solar energy generating systems. However, we do have regulations in the County’s Zoning Ordinance that deals with SEGs. She provided Commission members a chart detailing the zoning districts where SEGs are permitted by Special Exception, a chart of setbacks in each of these various districts, current definitions, and specific regulations for SEGs. Clarification of solar energy generating systems is currently needed. The law that gives the PSC jurisdiction over SEGs, thus pre-empting the County’s regulations, applies only to any solar energy generating system that generates over 2 megawatts of power. Anything below that threshold is not under PSC jurisdiction and can be regulated by the County.

Ms. Baker believes the Commission needs to focus on its concerns with regard to SEGs so in the future when applications are submitted to the PSC, these concerns and issues can be addressed in an appropriate manner. One of the major concerns of the Planning Commission is locating SEGs on prime agricultural land. Ms. Baker distributed maps showing the location of Class I, II and III soils, the location of steep slopes throughout the County, Protected Lands throughout the County, and Priority Preservation Areas and Rural Legacy Areas throughout the County. There was a brief discussion about placing SEGs on other lands besides agricultural land (such as parking lots).

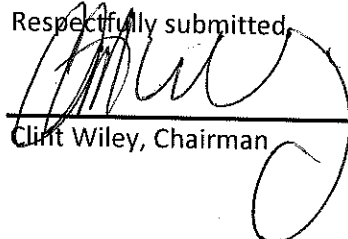
Mr. Wiley expressed his opinion that the County should incentivize solar arrays over parking lots and on buildings, etc. Mr. Reeder expressed his opinion that cost will be a big factor when determining where SEGs should be placed. Mr. Weddle expressed his opinion that a tax should be levied on SEGs when installed on prime agricultural land and use the funds to purchase additional land preservation easements. Ms. Baker stated that the County could potentially tie regulation to a PILOT (payment in lieu of taxes). Specific requirements would need to be put in place.

Ms. Baker stated that staff is seeking the Commission’s recommendations for establishing an overall policy discussing concerns it has for the location of SEGs in our county. Staff will then make a similar presentation as well as present the Commission’s recommendations to the BOCC to gather their feedback and ideas.

-ADJOURNMENT

Mr. Reeder made a motion to adjourn the meeting at 9:10 p.m. The motion was seconded by Mr. Weddle and so ordered by the Chairman.

Respectfully submitted,


Clint Wiley, Chairman

-UPCOMING MEETINGS

1. Monday, September 9, 2019, 7:00 p.m., Washington County Planning Commission public information and regular meetings, Washington County Administration Building, 100 W. Washington Street, Room 2000, Hagerstown, MD 21740