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**WASHINGTON COUNTY PLANNING COMMISSION
REGULAR MEETING AND WORKSHOP
May 6, 2024**

The Washington County Planning Commission held its regular monthly meeting and a workshop on Monday, May 6, 2024 at 6:00 p.m. at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

CALL TO ORDER AND ROLL CALL

The Vice-Chairman called the meeting to order at 6:00 p.m.

Planning Commission members present were: David Kline, Denny Reeder, Terrie Shank, Jeff Semler and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill, Baker, Director; Jennifer Kinzer, Deputy Director; Misty Wagner-Grillo, Planner; and Washington County Division of Engineering: Heather Williams, Senior Plan Reviewer.

NEW BUSINESS

MINUTES

Motion and Vote: Mr. Reeder made a motion to approve the minutes of the April 1, 2024 regular meeting as presented. The motion was seconded by Ms. Shank and unanimously approved.

ORDINANCE MODIFICATION

Lloyd Gearhart Lot 1 [OM-24-002]

Ms. Wagner-Grillo presented for review and approval an ordinance modification to create a new lot on a road with less than 16 feet width of paving along the lot frontage. The property is located at 11326 Marbern Road and is currently zoned RU (Residential Urban). Mr. Gearhart wishes to subdivide a portion of the property for his son. Ms. Wagner-Grillo explained that parts of Marbern Road are 13.5 feet wide and is a dead-end road beyond this property. The Adequate Public Facilities Ordinance, Section 4.1.2, states that the road must be at least 16 feet wide in front of the parcel to be subdivided. The County's Engineering Department does not recommend the subdivision of this lot without widening of the road.

Motion and Vote: Mr. Semler made a motion to approve the ordinance modification as presented. The motion was seconded by Ms. Shank and unanimously approved.

SITE PLANS

Obidi Holdings, LLC [SP-23-005]

Ms. Williams presented for review and approval a site plan for a proposed change of use from a gun shop to a dwelling unit/medical office, which is a special exception use within the RS zoning district, on property located at 13316 Marsh Pike. The property is currently zoned RS (Residential Suburban). The total site area is 20,000 square feet with a proposed reduction from 73.2% to 65.5% of impervious area. A special exception was granted (AP-1447) for the previous gun shop use and a variance from the rear yard setback. A second variance (AP-2164) was approved for the rear yard depth from 50 feet to 2 feet. These special exceptions were both granted with the understanding that the existing building structure and building footprint remain unchanged. The applicant is proposing to demolish the current building and build a new structure on the site, which will be dependent on new approvals from the Board of Zoning Appeals. Proposed hours of operation for the medical facility will be Monday thru Friday from 8:30 am to 4:30 pm and Saturday from 9 am to 12 pm. The site is served by County public sewer services and public water from the City of Hagerstown. Proposed lighting and signage are in compliance with the Zoning Ordinance. Both the new disturbance and the increase in impervious area are below the threshold at which Forest Conservation is required. Approvals are pending from the Department of Water Quality, Land Development and the Board of Zoning Appeals.

Motion and Vote: Mr. Semler made a motion to approve the site plan contingent upon all agency approvals and approval from the Board of Zoning Appeals. The motion was seconded by Mr. Reeder and unanimously approved.

Benevola SEC [SP-23-006]

Ms. Williams presented for review and approval a site plan for a solar energy facility located at 20401 Benevola Church Road on the existing quarry owned by Martin Marietta Materials, Inc. The property is currently zoned A(R) – Agricultural Rural. A special exception (AP2021-025) was granted to establish the solar energy generating system (SEGS) on property designated as a priority preservation area with a mineral industrial floating zone. All SEGS requirements dictated in the County’s Zoning Ordinance have been met. No new lighting or additional signage is proposed; no additional water or sewage services are proposed. Vehicular access will be provided by an existing industrial access road. Forest Conservation requirements have been met through the payment-in-lieu of planting option.

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

OTHER BUSINESS

Black Rock Holdings LLC

Mr. Matthew Powell of DRB Homes, 10212 Governor Lane Blvd., Williamsport, presented a request to use the clustering provision found in the County’s Zoning Ordinance for the planning and engineering of a “by-right” site development plan for property within the Black Rock PUD. He explained that the clustering provision allows a smaller lot size with open space being dedicated for joint use by the residents of the cluster subdivision. The total number of lots and dwelling units shall not exceed the number that would be permitted if developed under normal lot size requirements of the zoning district; therefore, no additional density would be permitted.

Discussion and Comments: Mr. Kline explained there have been numerous, contentious meetings regarding this subdivision in the past. He noted that staff has not provided a staff report and he believes the Planning Commission should not make a decision until staff weighs in on traffic, water and sewer issues, etc. Mr. Kline expressed his concern that the developer would come back at a later date and try to build more houses on the open space areas.

Ms. Baker responded there is no staff report to provide at this time. The clustering provision is detailed in the Zoning Ordinance. This provision does not allow a higher density than what is permitted by right in the RT (Residential Transition) zoning district. The RT zoning district permits single-family and two-family dwelling units only. The PUD overlay opened up the residential uses permitted by allowing townhouses and apartment complexes. Using the RT zoning district without the PUD overlay, approximately 450-900 dwelling units would be permitted depending on the number of single-family and two-family units proposed. Traffic impacts and water and sewer impacts will not change regardless if the developer uses the clustering provision or not. The clustering concept will go through agency reviews just as any other subdivision goes through for traffic impacts, sewer and water allocations, water pressure determinations, school capacity issues, etc. Ms. Baker explained that the clustering concept would preserve more open space, reduce infrastructure costs and help preserve environmental resources. She noted that the open space areas could not be further subdivided and used for additional housing without the approval of the Planning Commission. Ms. Baker stated that one cluster development has already been approved in the County in the rural area.

Mr. Kline noted that the Smart Growth concept was very popular in the O’Malley administration and he believes that clustering is a smart concept. Mr. Wagner expressed his opinion that more open space would be beneficial for residents. Ms. Baker stated that clustering will provide less infrastructure, less impervious surfaces, more open space and more affordable housing. She reminded members that there have been several discussions during our Comp Plan meetings about more affordable housing.

Ms. Baker noted that there have been court cases relative to the PUD; however, this project is unrelated to any of those cases. One complaint made by the opposition was that lot sizes were not similar to the existing lots in the area. While this may make part of the development look different, concerns could be addressed with the developer.

Commissioner Wagner asked if the remaining lands could be put into a preservation program. Ms. Baker stated it would not qualify for any of the County’s current land preservation programs. However, the developer could donate the land to the County for a park.

Mr. Kline expressed his opinion that the public is going to perceive this as a “back door” way to get increased density in this development. Mr. Powell reiterated that the development cannot get more density by using the clustering provision than could be developed by removing the PUD overlay. The underlying RT zoning would allow up to 900 units on larger lot sizes and with less open space. He believes the clustering concept would be more beneficial to the residents and the County as a whole.

Motion and Vote: Mr. Reeder made a motion to approve the use of the clustering provision with the standards set forth in the request for minimum lot sizes and setbacks. The motion was seconded by Mr. Semler and unanimously approved.

Annual Report

Ms. Kinzer presented the Annual Report for calendar year 2023, which is required by the Maryland Department of Planning. She highlighted the following data submitted in the report:

- Residential permits issued: 31% in the rural area; 69% in the urban area
- Rezoning – two applications were approved; both were voluntary down-zonings.
- Agricultural Land Preservation – 934.87 acres were permanently preserved at a value of \$3,664,071.15. The County has just surpassed 40,000 acres in permanently preserved land.
- No major subdivisions were approved in 2023. Approximately 230 acres were lost to subdivision in 2023; 172 acres in the rural area and 57.5 acres in the urban area.
- 61% of development occurred in the rural area; 39% occurred in the urban area
- Commercial development – 22% of the acreage and 2% of the gross square footage were in non-PFA areas; 78% of the acreage and 98% of the gross square footage were in the urbanized areas

Update of Projects Initialized

Ms. Kinzer provided a written report for land development plan review projects initialized during the month of March (a total of 59 projects) which included three preliminary/final plats and four site plans. Ms. Kinzer noted that permitting activity is beginning to pick up.

Commissioner Wagner made a motion to adjourn to Closed Session at 6:50 pm. The motion was seconded by Mr. Semler and so ordered by the Chairman.

CLOSED SESSION

To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals.

At 7:05 pm Mr. Reeder made a motion to adjourn the Closed Session portion of the meeting and go back to Open Session. The motion was seconded by Mr. Semler and so ordered by the Chairman.

WORKSHOP

Rural Areas

Ms. Baker began the workshop with a discussion of comments received regarding the rural areas of the County. The first comment was regarding septic tiers. Septic Tiers which were adopted by the State of Maryland in 2012. A handout was distributed to members showing the four tiers and their definitions. Tier 1 – existing public water and sewer; Tier 2 – the urban area where water and sewer services are expected to be extended; Tier 3 – areas in the rural area where there is existing cluster development that are not predominately ag or forestry resources; Tier 4 - areas that are predominately ag or forestry resources.

Staff has tried to get a Septic Tiers map adopted in the County; however, all attempts have failed. Therefore, the County has the most restrictive regulations with regard to development in the rural areas (seven lots maximum). The Maryland Department of Planning has stated it will not accept the proposed Septic Tiers Map as part of the Comprehensive Plan. A proposed map will need to go through an independent review process with MDP. Staff believes this should be left in the Comp Plan because it is part of the County's growth policies and will provide a starting place for other evaluations in the Comp Plan.

Ms. Baker noted there were two opposing points relative to septic tiers. The Home Builders Association supports the proposal to establish Tier 3 areas that encircle the Urban Growth Area (UGA) in order to provide flexibility and alleviate some pressure on home building due to limited water resources in the UGA. They also believe it will help the smaller home builders compete in the housing market. The Greater Hagerstown Committee (GHC) submitted comments that they support the re-sizing of the growth area and that higher densities should surround the growth area. Outside of the growth area, the density should be one unit per 25 acres to limit density sprawl. GHC voiced concerns where the Tier 3 areas are located because they coincide with known health issues. In addition, they want protection for the rural area resources and areas that are currently zoned for one dwelling unit per 5 acres should be rezoned for one

dwelling unit per 20 or 30 acres. Ms. Baker asked members if they are in favor of changing the agricultural zoned areas to one dwelling unit per 20 or 30 acres instead of one dwelling unit per 5 acres.

- **Consensus:** The Planning Commission is not in favor of changing agriculturally zoned properties to one dwelling per 20 or 30 acres.

Ms. Baker asked the Planning Commission if there should be a Tier 3 area outside of the PFAs. Not having a Tier 3 area would support the proposed goals of water quality and directing growth into the growth areas. After much discussion, staff recommends that the Tier 3 areas should be very limited, mostly in the Priority Funding Areas (PFA). Staff is basing their recommendation on the following reasons: it supports Smart Growth policies that limit sprawl and development outside of areas with public water and sewer and greater densities are being proposed inside the growth area to provide additional opportunities for much needed housing stock. Ms. Baker noted that the Home Builders Association supports greater densities. They support the Tier 3 areas to alleviate growth issues associated with the lack of water resources. Ms. Baker explained that by adopting Tier 3, it would allow subdivisions larger than 7 lots which could put a burden on the limited infrastructure in our rural areas. There would be the potential for a large subdivision to be located beside land we are trying to preserve for farming operations. She noted there are not a lot of Tier 3 areas proposed. Members reviewed the areas where Tier 3 is proposed.

- **Consensus:** Eliminate the Tier 3 areas around the growth area.

Priority Preservation Areas (PPAs)

The Ag Land Preservation Advisory Board submitted comments requesting that PPAs be extensively expanded. The Board wants to use the PPAs as a tool to block the growth areas from expanding. Planning Commission members reviewed a map distributed by staff showing the areas where the ALPAB would like to expand the areas. Ms. Baker stated that MDP will not accept any changes to the PPAs during the Comprehensive Plan review; that will need to be an independent review. There are specific criteria required by the State of Maryland when designating a PPA. Ms. Baker explained that the PPA areas are intended to be areas where we want to preserve land. The most cost-effective way to support the PPA is to build large blocks of land to protect them from sprawl development, nuisance complaints, etc. The law states that PPAs must equal at least 80% of our preservation goal, which is currently 50,000 acres.

At this point in time, staff does not support the proposed changes. Adding additional area does not build our blocks and creates more competition. Staff has chosen PPA areas that have top soils, where there is existing blocks of land, and where we have been successful with other types of easements. Staff has researched other areas where growth areas have been blocked in. This would not allow the County to grow where it should be growing or expanding in the future. Another reason staff does not support the expansion is because it will cause sprawl with easements which will not serve us well with the limited funds we have to preserve land.

- **Consensus:** The Planning Commission agrees with staff's recommendation that the Priority Preservation Areas should not be expanded due to the reasons given by staff.

Ms. Baker stated that as a way to address these comments, staff is considering changing the Implementation chapter of the Comp Plan. Goal 6 recommends updating the County's preservation goals which could be moved from a medium-term goal to a short-term goal and adding a recommendation to re-evaluate the PPAs as a short-term goal.

Alternative and Renewable Energy Sources

Ms. Baker stated that several comments were received from the general public during our public outreach meetings that more information is needed in the Plan related to alternative and renewable energy sources and where they should be located. Staff is working on making changes to the document.

- **Consensus:** The Planning Commission agrees that more information should be included in the Comp Plan.

Special Planning Areas

Ms. Baker explained that Special Planning Areas are a subset of Sensitive Areas in Washington County. State law requires mitigation of stream buffers, flood plains, steep slopes and threatened and endangered species. The law also allows communities to implement local planning areas. Washington County implemented Special Planning Areas for the Edgemont Reservoir and the Beaver Creek Trout Hatchery. There are special sections in the Subdivision Ordinance that require best management practices to be used for septic systems, etc. Staff discussed eliminating the Edgemont Reservoir because it is unclear if the City of Hagerstown will continue to use it as a resource. Environmental groups are opposed to this idea because they believe this is a critical watershed to our water quality efforts.

- **Consensus:** The Planning Commission wants to keep the Edgemont Reservoir and the Beaver Creek Trout Hatchery as Special Planning Areas.

Recommendations were made by the environmental groups to extend the Special Planning Areas to the Little Antietam Creek North watershed area. This recommendation is based on the following: the sensitive nature of the aquatic habitats in the area, the area supports a naturally occurring reproduction habitat for trout, the existence of land preservation easements, it's part of the PPA, and the implication that the health of the creek is not good. Criteria produced by the State to evaluate water quality in a watershed was used as part of the Water Resources Element in the Comp Plan. Ms. Baker briefly summarized staff's evaluation process for determining the placement of the tiers used on the Tiers Map.

Another comment received is that the County is not doing enough to protect Special Planning Areas from developmental impacts. Recommendations from the environmental groups include the following: add more restrictions to development such as decreasing square footage requirements for sediment and erosion control plans, increasing buffer requirements beyond slope requirements for stream buffers, and limiting additional impervious surfaces. Staff prepared a map showing areas that may be considered for additional Special Planning Areas. Mr. Allen stated that staff believes we should target watersheds of higher value which have a better stream quality because it is easier to maintain the health of a stream than it is to restore it after the fact.

Ms. Baker noted that the special planning areas need to be in areas where there is a logical and specific need for protection. Of particular interest is the Smithsburg area along Route 77 where the Appalachian Trail is located. Staff is recommending rezoning this area to EC – Environmental Conservation.

- **Consensus:** The Planning Commission agrees with this recommendation.

One resident attended several of our public outreach meetings and expressed a desire to establish a scenic easement designation on all lands west of Hancock.

- **Consensus:** The Planning Commission is adamantly opposed to this idea.

Rural Villages

Ms. Baker stated that several comments have been received during the public outreach meetings with regard to the approval of a Dollar General in the Cascade area. Staff has discussed the idea of drafting Design Guidelines for all Rural Villages in the County to minimize impacts in the contextual areas of infill development. In Rural Villages where a Historic Inventory has been completed indicating the contributing historic structures the Historic District Commission has architectural review authority. This provides continuity and maintains the character of the Rural Village.

- **Consensus:** The Planning Commission agrees that all Rural Villages should have Design Guidelines for new infill development.

Ms. Baker explained that staff will now begin making changes and revisions to the draft documents. A second draft will be brought back to the Planning Commission, hopefully sometime in August.

UPCOMING MEETINGS

1. Washington County Planning Commission regular meeting, June 3, 2024 at 6 p.m.

ADJOURNMENT

Mr. Semler made a motion to adjourn the meeting at 8:20 pm The motion was seconded by Ms. Shank and so ordered by the Vice-Chairman.

Respectfully submitted,



David Kline, Vice-Chairman