

**WASHINGTON COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
**September 9, 2024**

The Washington County Planning Commission held a public input meeting and its regular monthly meeting on Monday, September 9, 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**

Mr. Kline called the public input meeting to order at 6:00 p.m.

Planning Commission members present were: David Kline, BJ Goetz, Denny Reeder, Terrie Shank, and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill, Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Senior Planner; Misty Wagner-Grillo and Scott Stotelmyer, Planners; Kyla Shingleton, Comprehensive Planner; and Debra Eckard, Office Manager.

**PUBLIC INPUT MEETING**

**RZ-24-002 – John Halteman**

**Staff Presentation**

Mr. Allen presented a map amendment application to apply the Rural Business (RB) floating zone on 6.82 acres of land located at 12635 Flying Duck Lane. The property consists of a total of 50+ acres and is currently zoned A(R) – Agricultural Rural. The purpose of the RB zoning district is to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in rural areas of the County. Mr. Allen stated the RB floating zone may be applied to properties zoned A(R), EC (Environmental Conservation), P (Preservation) and RV (Rural Village). He explained that a floating zone requires specific conditions to be met as specified in Section 5E of the County's adopted Zoning Ordinance before it is applied to any parcel of land and reviewed the criteria which the Planning Commission should consider before making its recommendation for approval or denial of the request. Other requirements that must be met include a preliminary site plan that addresses the requirements specified in Section 5E of the Zoning Ordinance as well as specified bulk requirements also found in that same section. The approval of the RB zoning district applies only to the use/uses identified on the application and preliminary site plan and only covers the designated 6.82 acres of the parcel, not the entire 50+ acres of land. Mr. Travis noted that if the use/uses, area or intensity change, the applicant would be required to seek another approval from the Planning Commission, which could trigger another public meeting.

Mr. Allen explained that the application was transmitted to several reviewing agencies. The Historic District Commission (HDC) provided the most substantive comment concerning historic resources in the vicinity. There are 13 historic resources within a ½ mile radius of the site and the property itself is an inventoried historic site dating to the 19<sup>th</sup> century. The HDC stated in its review that it does not comment on the use/uses on the property; however, the structures in the area proposed for the RB uses are not directly adjacent to the historic structures and would appear to have minimal impacts on them, if the overlay is approved.

Mr. Allen reiterated that, if approved, only the use/uses identified on the application and the preliminary site plan will be permitted. Therefore, the Commission should consider all the uses specified on the application in terms of their ability to meet the definition of the RB zoning district. The land uses noted on the application were previously allowed by right or by special exception including the agricultural operation, the moderate volume extraction operation, and a greenhouse. Other uses identified in the application that would fall within the boundaries of the RB overlay, not previously authorized by right or special exception, include the wood planing shop, agricultural equipment rental, produce sales, outdoor woodstove sales, and cemetery monument sales. Staff believes that the establishment of the RB overlay would offer a path forward to comprehensively bring all active and proposed uses into legal conformity with zoning. Without the RB zoning in place, the applicant would be required to seek special exceptions for some of the uses which are not allowed by right in the A(R) district. If the RB overlay is approved, further development of the parcel would require the applicant to meet site planning requirements on other previously unregulated portions of the parcel and bring the parcel into compliance with modern land use regulations. Staff is not opposed to this request.

Mr. Allen noted that letters were sent to many property owners adjacent to this property. No public comments have been received either in favor of or in opposition to the application.

### Applicant's Presentation

Mr. Fred Frederick of Frederick, Seibert & Associates, 128 South Potomac Street, Hagerstown, represented John and Lisa Halteman, the applicants. Mr. Frederick stated that the purpose of the request is to bring all uses on the property, as previously described, into legal conformity under the umbrella of the RB overlay. He noted that the produce business/farm stand is operated by Mrs. Halteman and their children. The produce stand is located 900 feet away from Route 40. The outdoor woodstove business, agricultural equipment rental, wholesale wood planing (2 employees), and cemetery monument sales are operated by Mr. Halteman and are buffered from Route 40 by farm buildings. There will be very minimal traffic generated by any of these businesses. The applicant will use existing farm buildings for these businesses; there is no new construction proposed.

Mr. Frederick reviewed the purpose of the A(R) zoning district which is to provide for continued farming activity and the many uses that do not require public water and sewerage facilities and which may be more suitably located outside of the urban type growth of larger communities. He also reiterated the purpose of the RB district previously described by Mr. Allen.

Mr. Frederick briefly reviewed the criteria listed in Section 5.B.4 of the Zoning Ordinance that must be met in order to establish an RB zoning district.

1. The RB district is not within any designated growth area – this property is not within a designated growth area
2. The RB district must have safe and usable road access – the property is located along Route 40
3. On-site issues relating to the sewage disposal, water supply, storm water management and floodplains can be adequately addressed – they currently are addressed
4. The location of the RB district would not be incompatible with the existing land uses, culture, or historic structures or resources, or agricultural preservation efforts in the vicinity of the district – all of the existing and proposed uses are compatible

With regard to traffic generation from these businesses, Mr. Frederick noted State Highway Administration annual traffic counts in the vicinity reveals a decline of 24.4% in the last 22 years of traffic travelling westbound on Route 40. No comments were received from SHA or the County's Engineering Department regarding traffic issues in this area.

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

### RZ-24-003 – Text Amendment

Ms. Baker and Ms. Shingleton presented a proposed text amendment to address the state legalization of adult-use cannabis. Several sections of the Zoning Ordinance will be amended including the definitions for cannabis dispensaries, processing facilities and growers. The proposed language is taken directly from State law.

Ms. Baker explained that the State considers cannabis as an agricultural crop and therefore, anywhere that allows agricultural crops to be grown, cannabis may also be grown. The State requires licensures for growers that include fencing, lighting, and other strict requirements for growers. Cannabis growers will be permitted in any zoning district where agriculture is permitted and the land has an agricultural assessment. Zoning districts that do not permit agriculture are the BL (Business Local), BG (Business General) and HI (Highway Interchange). These districts are intended for retail and commercial uses only.

Ms. Baker stated that cannabis processors are strictly limited to receive the raw product, create a value-added product and distribute the product to a dispensary for sale. Cannabis processors, both standard and micro, would be permitted as a special exception use in the A(R) (Agricultural Rural), EC (Environmental Conservation), and P (Preservation) zoning districts and as a principal permitted use in the RB (Rural Business), BG (Business General), HI (Highway Interchange), IR (Industrial Restricted) and IG (Industrial General) zoning districts, Processors will not be permitted in the RV (Rural Village) zoning district.

Ms. Baker explained that cannabis dispensaries are the retail sales outlet in the cannabis network. Dispensaries, both standard and micro, would be a principal permitted use in the RB zoning district, BL (Business Local), SED (Special Economic Development), BG, PB (Planned Business), and HI zoning districts. Micro dispensaries operate a delivery service without a physical storefront and would be permitted as a special exception use in the RV zoning district. Currently, the county has received four licenses for dispensaries.

Ms. Baker stated that according to State law, cannabis dispensaries must be a minimum of 500 feet from a pre-existing primary or secondary school, a licensed childcare center or registered family childcare home, a pre-existing playground, recreation center, library, public park or place of worship and a minimum of 1000 feet from another dispensary. Staff is proposing that a dispensary must be a minimum of ½ mile from another dispensary.

No public comments either in favor of or in opposition to the proposed text amendment have been received.

**Motion and Vote:** Mr. Goetz made a motion to recommend approval of the proposed text amendment to the Board of County Commissioners as presented with dispensaries being a minimum of 500 feet from a pre-existing primary or secondary school, a licensed childcare center or registered family childcare home, a pre-existing playground, recreation center, library, public park or place of worship and a minimum of ½ mile from another dispensary. The motion was seconded by Ms. Shank and unanimously approved with Commissioner Wagner abstaining from the vote.

Mr. Kline closed the public input meeting at 6:47 p.m. and convened the regular meeting.

### **NEW BUSINESS**

#### **MINUTES**

**Motion and Vote:** Mr. Goetz made a motion to approve the minutes of the August 5, 2024 Planning Commission regular meeting as presented. The motion was seconded by Commissioner Wagner and unanimously approved.

#### **ELECTION OF OFFICERS**

Mr. Reeder nominated Mr. Kline for the position of Chairman and Mr. Goetz as the Vice-Chairman. Mr. Goetz declined the nomination and nominated Mr. Semler as the Vice-Chairman.

**Motion and Vote:** Mr. Reeder made a motion to nominate Mr. Kline as Chairman and Mr. Semler as Vice-Chairman. The motion was seconded by Mr. Goetz and unanimously approved.

#### **PRELIMINARY CONSULTATION**

##### **Beryl Wieland Age-Restricted Residential Concept [PC-24-005]**

Ms. Wagner-Grillo stated that a preliminary consultation was held on July 9, 2024 for the proposed construction of 52 semi-detached, age-restricted dwelling units on 12.85 acres located at 1230 Mt. Aetna Road. The property is currently zoned RS (Residential Suburban). The proposed lot size is 12,500 square feet. Comments from Planning & Zoning were recommendations for sidewalks, screening, and walking trails. Comments from the Engineering Department included issues of ownership of the entrance on North Colonial Drive, a request for an alternative design for the proposed cul-de-sac, and the requirement for a traffic impact study. The City of Hagerstown stated that water and sewer services are available.

**Discussion and Comments:** Commissioner Wagner asked if there will be language in the deeds restricting the age of occupants. Mr. Frederick of Frederick, Seibert & Associates stated that all pertinent language for an age-restricted development will be included in the deeds and an HOA will be formed to care for the open space areas and amenities.

Mr. Goetz asked if the streets are wide enough to accommodate fire and rescue vehicles. Mr. Frederick stated they are wide enough; however, there is only one access to the property. He noted the developer has ownership of a narrow strip of land going out to Mt. Aetna Road which could be used in emergency situations.

#### **ORDINANCE MODIFICATIONS**

##### **Sandra McCoy [OM-24-007]**

Ms. Wagner-Grillo presented an ordinance modification request to create a lot without public road frontage. Parcel 75 is 10 acres in size, is located off Exline Road, is served by a private lane (Porter's Lane) and is currently zoned EC (Environmental Conservation). A subdivision was approved in 1987 establishing this lot for "agricultural purposes only". The applicant now wishes to construct a single-family home on the parcel. An ordinance modification is required from Section 405.11.B of the

Subdivision Ordinance to create a lot without public road frontage because this lot is served by a shared private lane. The Hancock Fire and Rescue services were contacted and had no problem with access to the property.

**Motion and Vote:** Mr. Reeder made a motion to approve the ordinance modification for the creation of a lot without public road frontage. The motion was seconded by Ms. Shank and unanimously approved.

### **SITE PLANS**

#### **Saint James School Dormitory [SP-23-015]**

Mr. Stotemyer presented a site plan for the proposed construction of a new dormitory on the site of Saint James School at 17652 College Road. The property is currently zoned A(R) – Agricultural Rural. There will be one access from College Road. A variance was approved by the Board of Zoning Appeals to reduce the left-side setback to 11 feet. Water will be provided by an on-site spring and purified by an on-site filtration system and sewer will be provided by Washington County. Proposed lighting will be building-mounted and pole-mounted. No signage is proposed. Twelve parking spaces are required and 12 spaces will be provided. All agency approvals have been received with the exception of Forest Conservation.

**Motion and Vote:** Mr. Goetz made a motion to approve the site plan contingent upon approval of the Forest Conservation requirement being met. The motion was seconded by Mr. Reeder and unanimously approved.

### **FOREST CONSERVATION**

#### **Saint James School Dormitory [SP-23-015]**

Mr. Allen presented two forest conservation requests for the Saint James School Dormitory to meet Forest Conservation mitigation requirements. The first request is to use the payment-in-lieu of planting option to mitigate .13 acres of planting and the second request is to remove four specimen trees as part of the development. Specimen trees are those which are 30” or greater in diameter and are prioritized for retention under Article 8 of the Forest Conservation Ordinance. The applicant’s justification letter states that the trees are scattered throughout the site making it difficult to retain them. The letter also notes that some of these trees are in poor condition. Mr. Allen noted that payment-in-lieu is the only feasible option in the Ordinance to satisfy a planting requirement of only .13 acres.

**Motion and Vote:** Commissioner Wagner made a motion to approve the requests as presented. The motion was seconded by Ms. Shank and unanimously approved.

### **OTHER BUSINESS**

#### **Update of Projects Initialized**

Ms. Kinzer provided a written report for land development plan review projects initialized during the month of July which included three preliminary/final plats.

#### **Comp Plan Update**

Ms. Baker began discussions regarding the rural areas and proposed changes. She distributed maps for members to visualize the areas to be discussed (light green shading). Currently, our Preservation areas are 1 dwelling unit per 30 acres (1:30). There is a band of Preservation that runs from the south side of Hagerstown thru the Rural Legacy areas. Staff has discussed expanding the Preservation area to include Priority Preservation Areas (PPAs) which are areas that are being targeted for preservation. Following the public comment period and discussions with the Planning Commission, staff now believes that it will be too confusing and overbearing to make that particular change.

Ms. Baker explained that using the 2002 Comp Plan zoning categories of A(R) (1:5), EC (1:10) and P (1:30), staff calculates there are approximately 23,566 gross units currently available for development in these districts. The draft Comp Plan that was previously reviewed by the Planning Commission and has already been put out for the first round of public comment proposed a preservation overlay zone and the A(R) district remain at 1:5, which would yield 18,066 units. Staff is now proposing to eliminate the Preservation zoning and change the density of the current A(R) from 1:5 to 1:10 to balance out the elimination of the

Preservation zone. If the Preservation zone is eliminated and the A(R) zone is made 1:10, the gross yield would be 17,965 units. This would create a difference of approximately 100 units.

Members held a lengthy discussion regarding the change in the A(R) from 1:5 to 1:10. Some members expressed concern that we are taking away land rights. Discussions also focused on the reduction of sprawl in our rural areas and pushing growth into the designated growth areas where it can be served. Ms. Baker briefly described exemption lots that were adopted in 2005 by the BOCC. Members also discussed the septic tiers which currently allows a maximum of 7 lots for any subdivision. Ms. Baker explained that staff was proposing to adopt a septic tiers map with this Comp Plan; however, MDP is requiring the septic tiers to be a separate process.

**Consensus:** The Planning Commission agrees with staff's recommendation of changing the A(R) zoning from 1:5 to 1:10 keeping exemption lots and eliminating the preservation zoning. Commissioner Wagner abstained from this concurrence.

Ms. Baker stated that the proposed changes will be made to the Comp Plan and the revised version will be sent to the Planning Commission within a week. She asked members to review the document and make any comments within two weeks. The goal is to release the revised document for public comment sometime during the week of October 15<sup>th</sup>. We are required by law to allow MDP 60 days for its review and comments. We anticipate a public hearing sometime in January. Staff will give a brief presentation at the public hearing and then take public comment. Questions should be directed to staff during the public comment period, not at the public hearing.

Mr. Paul Frey requested a special meeting with the Planning Commission to discuss comments made during the first public comment period. Members feel this would set a precedent to meet with all groups that request a meeting. Further comments can be made during the next public comment period.

Commissioner Wagner made a motion to adjourn to Closed Session at 7:59 p.m. The motion was seconded by Mr. Goetz and so ordered by Mr. Kline.

#### **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.

Commissioner Wagner made a motion to adjourn the Closed Meeting and reconvene in Open Session. The motion was seconded by Mr. Goetz and so ordered by Mr. Kline.

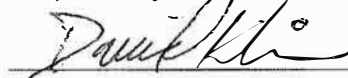
#### **UPCOMING MEETINGS**

1. October 7, 2024, 6:00 p.m. – Washington County Planning Commission regular meeting

#### **ADJOURNMENT**

Mr. Goetz made a motion to adjourn the meeting at 8:10 p.m. The motion was seconded by Ms. Shank and so ordered by Mr. Kline.

Respectfully submitted,



David Kline, Vice-Chairman