

**OFFICIAL MINUTES**  
**Carroll County Planning and Zoning Commission**

**October 20, 2015**

Location: Carroll County Office Building

Members Present: Alec Yeo, Chairman  
Richard J. Soisson, Vice Chair  
Eugene A. Canale  
Matthew S. Helminiak  
Jeffrey A. Wothers  
Cynthia L. Cheatwood  
Richard S. Rothschild, Ex-Officio  
Daniel E. Hoff, Alternate  
C. Richard Weaver, Commissioner

Present with the Commission were the following persons: Philip R. Hager, Mary Lane, and Kelly Martin, Department of Planning; Lynda Eisenberg, Scott Graf, and Andrea Gerhard, Bureau of Comprehensive Planning; Tom Devilbiss, Department of Land and Resource Management; Clay Black, Bureau of Development Review; Jay Voight, Zoning Administrator; Ted Zaleski, Department of Management and Budget; Gail Kessler, County Attorney's Office; James Marks, Carroll County Public Schools; Jeff Degitz, Department of Recreation and Parks; J. Brooks Leahy; and Arla Ely.

**CALL TO ORDER/WELCOME**

Vice Chair Soisson called the meeting to order at approximately 9:05 a.m.

**ESTABLISHMENT OF QUORUM**

Kelly Martin took the attendance of the Commission, noting that seven members were present, and there was a quorum.

**PLEDGE OF ALLEGIANCE**

**OPENING REMARKS**

Philip R. Hager, Secretary, noted that Item No. 12, Strategies for Zoning Code Modification for Master Plan Implementation, is an initiative staff is working on in conjunction with other departments. Staff is requesting that this item be postponed until the November work session to ensure everyone feels comfortable with the level of internal coordination. Secretary Hager asked that the Commission approve the agenda with the removal of Item No. 12.

**REVIEW AND APPROVAL OF AGENDA**

The agenda was approved with the removal of Item No. 12 on motion of Mr. Wothers, seconded by Mr. Helminiak, and carried.

## **PUBLIC COMMENTS**

There were no public comments.

## **REVIEW AND APPROVAL OF MINUTES**

- A. September 15, 2015
- B. September 30, 2015

The minutes of September 15 and September 30, 2015 were approved as written on motion of Mr. Helminiak, seconded by Mr. Wothers, and carried.

## **REPORT OF AGENCY REPRESENTATIVES**

- A. Public Safety
- B. Board of Education
- C. Management and Budget
- D. Recreation and Parks

### **A. PUBLIC SAFETY**

Vice Chair Soisson noted that Bryan Van Fossen was unable to attend this morning's meeting.

### **B. BOARD OF EDUCATION**

James Marks, Carroll County Public Schools, reviewed the construction report as follows: designs are underway for next summer's roofing projects for Westminster High, South Carroll High, Westminster Elementary, and Manchester Elementary with the hope that state review will occur this winter; roofing projects have been completed at the Career and Technology Center and Mechanicsville Elementary; and funding has been applied for under the Aging Schools Program to replace malfunctioning equipment in the gymnasium at Francis Scott Key High and playground equipment at Taneytown Elementary. Mr. Marks reported that the Board of Education and the Boundary Adjustments Committee will hold a work session on October 26 at 5:30 p.m. at the Central Offices. He noted that there will be no public participation during this meeting.

### **C. MANAGEMENT AND BUDGET**

Ted Zaleski, Department of Management and Budget, reported that staff has begun working on the capital budget process. Operating budget requests will be submitted in December. Mr. Zaleski noted that he was unaware of a "deadline" for the Board of Education to make a determination regarding school closings and boundary adjustments. He stated that the Board has made a commitment to hold at least four public sessions around the County to discuss the issue. Mr. Zaleski explained that it is necessary to keep projects moving forward on a parallel tract until decisions are made regarding school closings. He noted that the school system has a capacity of 31,000 seats with 25,000 students, and existing enrollment projections continue to drop. This issue has to be addressed "system-wide".

Eugene Canale, Commission member, asked whether any analysis had been done to estimate the potential cost savings of the proposed closings and how that money could be utilized.

Mr. Zaleski noted that Option 3 that closes five schools could save \$7 million per year. The Commissioners have committed to the Board of Education (BOE) that that money would remain in the BOE budget to use as they wish.

Jeffrey Wothers, Commission member, asked what happens to a building when a school is closed.

Mr. Zaleski explained that when a school is recommended for closing, it must be approved by the state and an appeals process is available to the public. Once approval is received, the County can raze the building, sell it, find another use for it, etc.

#### **D. RECREATION AND PARKS**

Jeff Degitz, Department of Recreation and Parks, reported that the Westminster Community Pond was reopened last month. The project was a wonderful partnership with the Bureau of Resource Management. A larger pond was created along with a half-mile walking trail.

Commissioner Weaver noted that the pond handles 250 acres of stormwater management for the community.

Mr. Degitz reported that the Sandymount Park playground is being replaced as one of the County's park restoration projects, along with repaving of the walking trail. These projects should be completed by early November. Mr. Degitz reported that Krimgold Park, Phase 1 will be opening in December. The walking trail will open immediately with three athletic fields becoming available in March.

(Commissioner Rothschild entered the meeting.)

Mr. Degitz noted that the school closing discussion affects parks and recreation as well since every gymnasium and athletic field at the 43 schools is utilized by the recreation councils for athletic programs.

Vice Chair Soisson asked whether the County still had plans to connect the walking trail at Bennett Cerf Park to the Westminster Community Pond.

Mr. Degitz explained that the County hopes to connect the Community Pond to Bennett Cerf Park and the Commerce Center. Pieces of the connection have already been made.

#### **COMMISSION MEMBER REPORTS**

- A. Commission Chairman
- B. Ex-Officio Member

#### **A. COMMISSION CHAIRMAN**

Vice Chair Soisson indicated he had nothing to report.

## **B. EX-OFFICIO MEMBER**

Commissioner Weaver reported that a meeting is scheduled on Monday with Secretary Grumbles, Maryland Department of the Environment, and Secretary Belton, Maryland Department of Natural Resources, to discuss the elimination of Best Available Technologies (BAT) systems in the rural areas and provide alternatives that would work.

Cynthia Cheatwood, Commission member, asked if the discussion was related to commercial and/or residential properties.

Commissioner Weaver indicated the request involved both.

## **ADMINISTRATIVE REPORT**

- A. Administrative Matters
- B. Extensions
- C. BZA Cases
- D. Other

### **A. ADMINISTRATIVE MATTERS**

Philip R. Hager, Secretary, reported that the Grand Opening of Eldersburg Walmart at Eldersburg Commons will be held tomorrow. He noted that the November 17 meeting will be the annual organizational meeting and will include the Election of Officers and a review of the Administrative Rules.

### **B. EXTENSIONS**

Clay Black, Bureau of Development Review, reported that three extensions had been granted since the last meeting, including: a fourth one-year extension for a one-lot minor subdivision in Election District 3; a fourth one-year extension of a one-lot major subdivision in Election District 4; and a fifth one-year extension for three lots in Election District 4. Mr. Black noted that four of the original seven lots had been recorded.

### **C. BZA CASES**

Secretary Hager reported that staff provided comments to the Board of Zoning Appeals (BZA) on three cases as follows: BZA Case No. 5891, Jessica and Curtis Thornton, appeal of the Zoning Administrator's decision, request for a variance to allow for a private stable for a maximum of 2 horses on 1.96 acres of property at 2034 Keysville Bruceville Road in Keymar in the County's Agricultural District; BZA Case No. 5892, Carroll Tree Service, Inc., request for a conditional use and variance for the manufacturing of mulch, including processing, storage, and sale at retail and wholesale, on 5.60245 acres at Maple Grove Road in Manchester within the County's Agricultural District; and BZA Case No. 5893, Rosalind Cheeks, request for a conditional use for an assisted-living facility on 1.00 acres of property at 1246 Deer Park Road in Westminster in the County's Agricultural District.

## **D. OTHER**

Secretary Hager indicated he had nothing further to report at this time.

### **REZONING CASE NO. 224 – LUER’S PROPERTIES – INTRODUCTION**

Philip R. Hager, Secretary, noted that in accordance with the recommended course of action and upon direction of the Board of County Commissioners, Planning staff accepted applications from two properties in the Freedom Area. On October 8 the deferral of new applications went into effect. No further zoning map amendments will be considered until Adoption of the Freedom Plan.

Andrea Gerhard, Bureau of Comprehensive Planning, introduced the rezoning noting that the 11 parcels containing 15.56 acres are located on the south side of Liberty Road, east side of Luers Avenue. The request is to rezone the properties from “B-NR” to “BG”. Ms. Gerhard indicated that the properties are owned by the same family, and will be consolidated if the rezoning is approved. She reviewed the neighborhood established for this rezoning, the existing zoning, designated land use, and existing use of land, noting that the majority of the 15+ acres is vacant.

J. Brooks Leahy, attorney for the applicant, reminded the Commission that he and his client had originally come to the Commission requesting a text amendment to allow for a modification to the size restriction in the “B-NR” district. At that time, it was suggested that the request move forward in the form of a change/mistake piecemeal rezoning.

(Chairman Yeo entered the meeting.)

### **FREEDOM PLAN WORK SESSION**

#### **Checkpoint: Element 4, Demographic Trends**

Lynda Eisenberg, Bureau of Comprehensive Planning, stated that the numbers included in this Element had been vetted by Scott Graf, the Department’s demographics lead staff. She noted that this was not intended as a complete review, but an opportunity for the Commission to ask questions.

Richard Soisson, Commission member, suggested that maybe the information in the chapter could be condensed so that it is not so overwhelming.

Philip R. Hager, Secretary, noted that many of the recommendations in other sections of the Plan have a direct tie to information provided in this chapter. He suggested that staff might prepare a summary of the chapter at the beginning.

Ms. Eisenberg suggested that the Commission wait to remove any information until after finishing the review of the remaining chapters.

Chairman Yeo indicated it would be helpful to know how many people in the Freedom area work from home and if they don’t, where do they work and how far do they travel.

Mary Lane, Department of Planning, indicated some of that information should be provided in the Economic Development Chapter and staff would research Chairman Yeo's questions to see if it might be available from another source.

Matthew Helminiak, Commission member, noted that a specific number is not as important as a trend.

Chairman Yeo asked for the rewording of the sentence in the middle of page 3 that reads: "This could be attributed to a number of factors, including residents aging in place, increased longevity, the increased availability of senior housing over the last decade, less in-migration overall, and fewer residential permits being issued since the start of the recession in the mid-2000s." He suggested that the current wording makes it seem as though the County is choosing to issue fewer permits, not that fewer applications are being submitted. Chairman Yeo suggested that the table title on page 3 and other similar titles be simplified because it is confusing to list the 2000 and 2010 Census as well as American Community Survey (ACS) 5-Year Estimates for 08 – 12.

Scott Graf, Bureau of Comprehensive Planning, explained the sampling of data provided by the ACS.

Secretary Hager noted that staff would again review the Demographics chapter with the Commission at the November meeting. At that time, the Commission would be asked to consider their concurrence which would allow staff to place the documents on the website and be made available to the public.

### **Consideration of Concurrence: Elements 1-3**

Ms. Eisenberg asked for any additional comments or questions regarding Elements 1-3.

Secretary Hager noted that all of the comments from the last meeting's work session have been addressed.

Chairman Yeo suggested that the "Draft" watermark be added to the document prior to making it available on the website.

There were no public comments.

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and carried, granted their concurrence of Elements 1-3 of the Freedom Community Comprehensive Plan.

### **DISCUSSION: POTENTIAL MODIFICATIONS TO THE PLANNING COMMISSION'S ADMINISTRATIVE RULES**

Philip R. Hager, Secretary, distributed copies of the Administrative Rules with several proposed changes. He noted that many of the changes are due to the new Chapter numbers in the revised Code. Secretary Hager reviewed the proposed changes and asked the Commission whether a definition for "ex parte communication", mentioned in Section 4.1, should be provided in the Rules.

There was considerable discussion regarding the definition of “ex parte communication”; how the Commission currently operates; how other Commissions, like the Board of Zoning Appeals, operate; whether topics like the Master Plan should be considered the same as development applications; etc.

Matthew Helminiak, Commission member, suggested that the state would be a good resource as far as recommended course of action.

Staff and legal counsel will conduct further research and prepare a recommendation for the November business meeting.

(Daniel Hoff, Commission member, left the meeting.)

Jeffrey Wothers, Commission member, indicated he would not be present for the November 17 meeting. He stated that he did not have an issue with the current language regarding ex parte communication, noting that it needs to be guided by how fair it is to the applicants. Mr. Wothers suggested that the current language strikes a good balance, as it discourages it but allows that a comment might be made to one of the Commission members. If a comment is made, it should be shared with the rest of the Commission.

The Commission discussed the Ex-Officio (Commissioner Rothschild) and alternate Ex-Officio (Commissioner Weaver) members and how that arrangement works.

Commissioner Rothschild acknowledged that only one Ex-Officio member should be seated at the dais at a time. He indicated he and Commissioner Weaver would address this issue.

Gail Kessler, Deputy County Attorney, suggested that the Commission could have issues with how the Alternate position is currently being handled. She explained that the Alternate sits as a regular member when there is not a quorum. When there is a full Commission, the Alternate should not be treated as a regular member and should be given the opportunity to speak only when public comments are taken.

Chairman Yeo asked counsel what latitude the Commission has with regard to the Alternate position while keeping the Commission in compliance with the Code. He asked whether work sessions could be handled differently than regular business meetings.

Mr. Wothers suggested that if this was a provision in the Land Use Article relating to Carroll County, the County could submit legislation to change the language to more closely match that in the Administrative Rules. He noted that the Commission is made better by having a knowledgeable and participating Alternate.

A motion was made by Mr. Soisson and then withdrawn to request legislation to have language from 3.13 of the Administrative Rules added to the Annotated Code of Maryland.

Mr. Soisson asked why the Alternate would not be able to participate when the Ex-Officio member is not present.

Mr. Wothers recommended changing Section 3.13 of the Administrative Rules to read as follows: “Alternate. The designated Alternate shall have all responsibilities and obligations of a

regular member at all times with the exception of limitations set forth below. The Alternate shall have all of the rights and privileges of a regular member when one (1) or more regular member(s), but not the Ex Officio, is/are not in attendance. In all other such instances, the Alternate may participate in discussions until a motion is made.”

The Commission, on motion of Mr. Soisson, seconded by Ms. Cheatwood, and unanimously carried, directed staff to submit proposed legislation to the General Assembly to change the Code to add Section 3.13 from the Administrative Rules with the changes recommended by Mr. Wothers.

Chairman Yeo suggested having a nameplate printed with the word “Alternate” for those times when the Alternate cannot participate in discussion. He directed counsel to interrupt the Commission in the future when the Commission is not acting according to the Code. Chairman Yeo noted that their actions were not intentional, but from a lack of understanding.

Secretary Hager noted that the Administrative Rules would be placed on the November meeting for Commission action.

### **PUBLIC COMMENTS**

There were no public comments.

There being no further business, the Commission adjourned at 11:55 a.m.

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Secretary

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Approved