

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

**January 19, 2016**

Location: Carroll County Office Building

Members Present: Matthew S. Helminiak, Chair  
Alec Yeo  
Eugene A. Canale  
Jeffrey A. Wothers  
Cynthia L. Cheatwood  
C. Richard Weaver, Ex-Officio

Members Absent: Richard J. Soisson, Vice Chair  
Daniel E. Hoff, Alternate

Present with the Commission were the following persons: Commissioner Richard Rothschild; Philip R. Hager and Mary Lane, Department of Planning; Lynda Eisenberg, Scott Graf, and Andrea Gerhard, Bureau of Comprehensive Planning; Tom Devilbiss and Kelly Martin, Department of Land and Resource Management; Clay Black, Laura Matyas, Price Wagoner, John Breeding, and Martin Percy, Bureau of Development Review; Jay Voight, Zoning Administrator; Gail Kessler, County Attorney's Office; Bryan Van Fossen, Department of Public Safety; Mark Hurt; Kyle Ramseur; William Ensor; Steven Billet; John Lemmerman; and Billy Miller.

**CALL TO ORDER/WELCOME**

Chair Helminiak called the meeting to order at approximately 9:08 a.m.

**ESTABLISHMENT OF QUORUM**

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

**PLEDGE OF ALLEGIANCE**

**OPENING REMARKS**

Philip R. Hager, Secretary, noted that Commissioner Weaver will now be serving as the Commission's Ex-Officio member, with Commissioner Howard as the secondary. He noted that staff were not recommending any changes to the meeting agenda that was previously distributed.

**REVIEW AND APPROVAL OF AGENDA**

The Commission, on motion of Mr. Wothers, seconded by Mr. Yeo, and carried, approved the agenda as distributed.

**PUBLIC COMMENTS**

There were no public comments.

## **REVIEW AND APPROVAL OF MINUTES**

- A. December 15, 2015
- B. January 6, 2016

The minutes of the December 15, 2015 and January 6, 2016 meetings were approved on motion of Mr. Wothers, seconded by Ms. Cheatwood, and carried.

## **COMMISSION MEMBER REPORTS**

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

### **A. COMMISSION CHAIR**

Chair Helminiak indicated he had approved two minor subdivisions since the last meeting: Triple K Acres, a one-lot minor on McKinstry's Mill Road; and Salem Crest, a two-lot minor on Salem Bottom Road.

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

Commissioner Weaver provided information regarding a presentation by Harbor Rock, a corporation with a proposal to clean up the sediment in the Baltimore Harbor and Chesapeake Bay, ultimately using the materials for construction.

## **ADMINISTRATIVE REPORT**

- A. Administrative Matters
- B. Extensions

### **A. ADMINISTRATIVE MATTERS**

Philip R. Hager, Secretary, noted that because of the lengthy agenda, he would move directly to the Extensions report by Mr. Black, and there would be no other items under Administrative Report.

### **B. EXTENSIONS**

Clay Black, Bureau of Development Review, reported that three extensions had been granted since the last meeting: a sixth one-year extension for the subdivision plan for Abbott Acres, a 7-lot subdivision, zoned Conservation, located in Election District 4; a sixth one-year extension for the subdivision plan for Hidden Creek, a 7-lot subdivision, zoned Conservation, located in Election District 4; and a seventh one-year extension for the subdivision plan of Skiba Farms, zoned Conservation, located in Election District 4.

## **FY17-22 PRELIMINARY RECOMMENDED CIP OVERVIEW**

Ted Zaleski, Department of Management and Budget, noted that staff had previously distributed copies of the CIP Requests that were submitted as well as the Preliminary Recommended CIP for the Commission's review. He explained that the Preliminary Recommended CIP is an attempt by staff to reflect the goals of the Board of County Commissioners and will be utilized by Budget staff as a starting point for discussions with the Board; it is not a final document. Mr. Zaleski directed the Commission's attention to the funding for several projects, including: the Career and Technology Center Replacement Building, CCPS Roof Replacement Projects, Agricultural Land Preservation, and the Market Street Extension. Mr. Zaleski explained that the Commission's role is to determine whether these projects are consistent with the Master Plan.

Alec Yeo, Commission member, noted that the fiber optic network is an item that is discussed in the Carroll County Master Plan and other plans. He asked about the \$1.6 million request that was not included in the recommendations.

Mr. Zaleski explained that the \$1.6 million was specifically related to the County connecting its utility facilities for the ease of monitoring pump stations without being on location. This is a project the County would like to move forward, but there is no funding available at this time.

Mr. Yeo asked for clarification that this funding had nothing to do with economic development and the ability to attract industries.

Mr. Zaleski explained that the structure to address those needs is already in place. He noted that the Commission is being asked to provide a letter finding that the projects are consistent with the Carroll County Master Plan in the February or March timeframe.

## **CONCEPT SITE PLAN REVIEW**

- A. S-15-0008, 2<sup>nd</sup> Amended Site Plan for C.J. Miller LLC Facility
- B. S-15-0023, OHW, Inc. Tree Service

### **A. S-15-0008, 2<sup>ND</sup> AMENDED SITE PLAN, C.J. MILLER LLC FACILITY**

LOCATION: Northwest side of Basler Road, East of Hanover Pike (Md. Rt. 30),  
6th Election District

OWNER: C J Miller LLC, 3514 Basler Road, Hampstead, Maryland 21047  
LLC Members: Charles J. Miller III and William Miller

DEVELOPER: Same as Owner

ENGINEER: DRS & Associates, 52 Winters Alley, Westminster, Maryland 21157

ZONING: BG – General Business

ACREAGE: 5.24 acre (Parcel 761)

WATERSHED: Prettyboy Reservoir

MASTER PLAN: Existing Land Use – Commercial -Medium

PRIORITY

FUNDING AREA: N/A

DESIGNATED

GROWTH AREA: N/A

Clayton R. Black presented the background.

Action Requested:

The plan is before the Commission for their guidance and comments of the Concept Site Plan per Chapter 155 of the Code of Public Local Laws and Ordinances of Carroll County.

Background:

The Charles J. Miller, Inc. company purchased several pieces of property at the corner of Bassler Road and Md. Rt. 30 in September, 1961. In 1978, a site plan was approved for site improvements on parcel #642, the location of the current operation center. In 1994, an amended site plan was processed (S-94-008) for parcel #761, which was approved by the Planning Commission for a new building and parking lot. Due to no activity, that project expired.

Existing Conditions:

The CJ Miller LLC parcels are all zoned BG. The subject property is currently an approved contractor's equipment storage with an overflow parking area for their excavation business located on an adjoining property.

The subject parcel is located on the northwest side of Basler Road. The existing site is accessed by an unnamed use in common driveway that currently serves six residential properties, in addition to the two different CJ Miller LLC properties. The zoning of the surrounding properties are a mix of Conservation and General Business. The surrounding properties all have private wells and septic systems. CJ Miller LLC extended a connection line from the Hampstead sewer service area, to provide a connection to their property on April 2013. CJ Miller water supplies are from existing wells on the properties.

On July 28, 2015 the Board of Zoning Appeals (case #5862) attached, granted a conditional use for a contractor's equipment storage yard, and a variance to permit an area comprising of 66,277 sq. ft. and a variance to allow the distance requirements reduced from 20 feet to 120 feet from adjoining property lot lines for parcel #761.

Proposed Site Development

This is the 2nd Amended site plan, which proposes a new building and additional parking lot for the parcel #761. The applicant is proposing a new 50'-0" wide, by 160'-0" three sided pole barn structure for the storage of road construction materials. These construction items are currently stored on site. The structure will be constructed of wood framing with a metal siding and a metal

roof. The proposed building orientation on the site will be with the open portion facing north. There is proposed lighting on the front of the building, a photometric plan will be required. The applicant is also requesting an area of 64'-0" wide x 250'-0" for parking. This new parking lot will provide 56 additional spaces for employee and overflow parking.

#### Concept Plan Review:

The concept site plan was received and was distributed to all reviewing agencies on September 30, 2015. The proposed plan was reviewed and presented at a Technical Review Committee (TRC) meeting on October 26, 2015. During that TRC meeting comments from all reviewing agencies were presented to the owner and engineer. There were no citizens in attendance at this meeting. In addition, the Bureau of Development Review has not received written correspondence from any citizens on this project.

Landscaping requirements include a Class A landscaping screen around the proposed building and the adjacent residential properties to the Southeast. Forest Conservation will be addressed by banking off site to meet the requirements. Forest Conservation/Landscaping has granted Concept approval of the site plan.

Grading commented about the steepness of the grades at the rear of the proposed building and the need for additional safety devices to be located at the top of that slope; (fences, landscaping, etc.). These Code requirements are due to the steepness of the slope with additional notes required regarding the 2:1 slope ratio behind the building.

Stormwater Management granted concept stormwater approval. Water Resource Management granted concept approval, with notes indicating that this building is within an Aquifer and Wellhead protection area. In addition, a note needs to be added stating that there will not be any regulated substance to be stored or used in the proposed building.

The property is exempt from the regulation of Chapter 153 Floodplain management.

The Carroll County Health Department stated that the Site plan is approved for the proposed building provided it would not have any plumbing.

Based on trip generation numbers supplied by the engineer, this project will not require a traffic impact study.

#### Discussion:

Mr. Black reminded the Commission that they could authorize the Chairman to approve the final amended site plan on the Commission's behalf.

Eugene Canale, Commission member, asked whether any regulated substances would be stored.

Bill Miller, owner, indicated oil for the equipment and vehicles will be stored, but that is not a regulated substance.

Alec Yeo, Commission member, asked if the three homes to the east were owned by C.J. Miller, LLC.

Mr. Miller indicated they were not, but they do work closely with their neighbors. He noted that one of the owners sent a letter indicating they did not want landscaping added.

There were no public comments.

**Decision:**

In accordance with Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Yeo, and carried, granted the Chairman authority to approval the final site plan on behalf of the Commission.

Alec Yeo, Planning Commission Member, on behalf of the full Commission, directed staff to prepare a statement, with legal counsel review, that could be reproduced and used on social media informing the public of the role of the Planning Commission and the Board of County Commissioners and the lack of control regarding what type of establishment is placed on a property as long as the use is allowed in that zoning district.

**B. S-15-0023, OHW INC. TREE SERVICE**

LOCATION: West side of Old Washington Rd, South of Old Liberty Road, 14<sup>th</sup> ED

OWNER: William Lee Rash & Brenda Denise Rash, 3422 Pine Circle South, Westminster MD, 21157

DEVELOPER: William Lee Rash & Brenda Denise Rash, 3422 Pine Circle South, Westminster MD, 21157

ENGINEER: RTF Associates, Inc., 142 East Main Street Westminster, MD 21157

ZONING: Agricultural

ACREAGE: 17.063 acres

WATERSHED: Patapsco River – South Branch

MASTER PLAN: Agricultural

**PRIORITY**

FUNDING AREA: Outside

**DESIGNATED**

GROWTH AREA: None

FIRE DISTRICT: Winfield

Clayton R. Black presented the background.

Action Required:

This plan is before the Planning and Zoning Commission for concept review of a site plan. No action is required.

Existing Conditions:

The property is located on the West side of Old Washington Road, and South of Old Liberty Road and contains an existing storage building. The property is encumbered by an existing 20 foot Right-of-Way agreement for access to an adjoining parcel. The adjoining properties are zoned Agricultural and the properties across Old Washington Road are zoned Conservation. The properties to the West and South are agricultural and the properties to the East are residential. All properties in this area are served by private well and septic systems.

Background:

The owner was granted a building permit, # 13-0316, in 2013 for the construction of a farm building for a commercial nursery. The building was completed in December of 2013. Upon the business growing and acquiring more equipment along with expanding the services offered, the owner was granted a conditional use permit, Board of Zoning Appeals case: 5750 in May of 2014, for a contractor's equipment and storage area as well as a variance for the setback requirement in the Agricultural district. The owner was granted an additional building permit, # 15-0874, for the existing sign for OHW, Inc. Tree Service.

Site Plan Review:

A concept plan for the existing contractor's storage area and building was submitted to the Bureau of Development Review on November 5, 2015. This plan is to bring the contractor storage yard into compliance with Chapter 155.059, Site Plan Requirements, of the Code of Public Laws and Ordinances. County agencies presented plan review comments to the surveyor at the December 21, 2015 Technical Review Committee meeting.

The current building is comprised of 13,200 square feet. There is a propane tank and above ground fuel and oil tanks located on the South side of the site. The building has the appearance of a modern barn, with large roll up doors on the North and South elevations. The building is metal painted blue with a white standing seam metal roof. Access to the site is via an existing 20 foot wide drive from Old Washington Road, landscaped with a four (4) foot split rail fence attached to a stone wall and pillars. The MD State Highway Administration has approved the access with no additional improvements required.

There is an existing well on site; since there is no office space, employees or bathroom facilities in the existing storage building the Health Department approves the site plan.

In accordance with Chapter 155.21 of the Forest Conservation Ordinance the total cumulative disturbance area of the site is 82,111 square feet; therefore, a forest stand delineation and forest conservation plan shall be submitted. The site will need to be landscaped in accordance to the Landscape Manual. A class (B) screen is required adjacent to the public right of way.

The site is not in a flood zone; therefore, the property is exempt from the requirements of the floodplain management ordinance. Storm water management has given Concept approval with further details needed at preliminary. Since the project is within a Surface Water Protection Area and is a commercial development, the propane tank and the above ground fuel and oil tanks shall be under roof so that exposure to rainfall is eliminated and contamination of storm water runoff is prevented.

All adjoining property owners have been contacted as of the date of this report. There have been two telephone inquiries pertaining to the scope of the project, both from adjoining property owners. Both inquiries stated how well kept the site is and how well the building fit into the rural character of the area. No written comments have been received.

Discussion:

Mr. Black noted that the plan will come back before the Commission once all agency comments have been addressed.

There were no public comments.

### **PROPOSED ZONING TEXT AMENDMENT – PETROLEUM STORAGE FACILITIES**

Secretary Hager explained that petroleum storage facilities are currently regulated in the Code by definition. A work team consisting of Phil Hager, Tom Devilbiss, Jay Voight, Clay Black, Mary Lane, Jason Green, and Bryan Van Fossen has been meeting to review regulations in other jurisdictions and developed the proposed language distributed to the Commission. Secretary Hager reviewed the proposed changes.

Commissioner Rothschild stated that farmers have installed multiple 2,000 gallon tanks in order to comply with the County's regulations and meet their fuel needs. He suggested that multiple 2,000 gallon tanks with all of their individual fittings creates a greater risk of leaks than one 30,000 gallon tank. Commissioner Rothschild suggested that the language might be changed to read "less than or equal to 30,000 gallons" rather than "less than 30,000 gallons". He also asked that staff ensure that these regulations would not affect hardware stores in the BG District that refill propane tanks.

Cynthia Cheatwood, Commission member, asked where the 30,000 gallon limit came from.

Secretary Hager explained that 30,000 gallons is the size tank that can be transported without triggering additional transportation regulations. That size also meets the needs of the individuals that have discussed this matter with the County. Secretary Hager suggested that staff needs to do additional research on how this regulation will affect Mobile Home Parks and whether unintended hardships will be created for the locating of gas stations because of the setbacks established.

Ms. Cheatwood expressed concern that a residential property could have multiple 2,000 gallon tanks or a 30,000 gallon tank. She asked whether the County should consider regulating based on the size of the parcel.

Secretary Hager indicated this item would be back on the agenda for discussion at one of the February meetings.

**PROPOSED ZONING TEXT AMENDMENT – HOME OCCUPATIONS/ACCESSORY USE DEFINITIONS**

Secretary Hager reviewed the proposed changes to the Zoning Code with regard to Home Occupations and Accessory Uses. He explained that the proposed changes provide additional enforcement tools for the Zoning Administrator.

Alec Yeo, Commission member, suggested that items (3) and (5) on page 2 be combined, as well as items (4) and (6), removing the signage language from (4) and making that a separate item.

Secretary Hager noted that he did not feel the Committee would have an issue with combining items (3) and (5), but based on previous enforcement issues, (4) and (6) should remain separated.

Jeffrey Wothers, Commission member, suggested that if it is the intent of the County that all of these items be complied with, then “and” should be added after item (5) or the next to last item.

**MT. AIRY ANNEXATION NO. 39 – JONES PROPERTY**

Andrea Gerhard, Bureau of Comprehensive Planning, noted that the public hearing for this annexation has been scheduled by the Town of Mount Airy for February 1. The annexation request consists of six parcels owned by Frall Developers, Inc., totaling 5.0921 acres. The land is wooded but otherwise vacant. Ms. Gerhard explained that the parcels are zoned R-40,000 in the County, and the Town intends to zone them R-2 Residential which will not increase the density by more than 50 percent, so a zoning waiver is not required. She reviewed the agency comments, highlighting the comments regarding the ownership and maintenance of Ellis Road. The Commission was asked to forward the annexation request to the Board of County Commissioners with a positive recommendation.

Chair Helminiak asked how the Commission might address the agency comments regarding Ellis Road.

Ms. Gerhard explained that the Board of County Commissioners will forward a comment letter to the Town for the public hearing record. Within that letter, the Ellis Road issue will be addressed.

There were no public comments.

The Commission, on motion of Mr. Yeo, seconded by Mr. Canale, and carried, directed staff to forward the annexation report to the Board of County Commissioners with a positive recommendation, including all the comments provided by the agencies.

Because the Commission was ahead of schedule, they moved the Medical Cannabis Update/ Discussion forward on the agenda.

## **MEDICAL CANNABIS UPDATE/DISCUSSION**

Secretary Hager distributed a handout which illustrated what the current Code allows with regard to medical cannabis. He reviewed information on how other counties are addressing this issue. Commissioner Weaver noted that outdoor growing is not even a consideration at this point.

Alec Yeo, Commission member, suggested that indoor growing be allowed as a conditional use in the Agriculture, I-R, and I-G districts so that the Board of Zoning Appeals (BZA) can determine whether it is appropriate in a particular location. He suggested that processing only be allowed as a conditional use in the I-R and I-G districts, and that dispensing only be allowed as a conditional use in the I-R and I-G districts.

Secretary Hager suggested that staff develop a definition that would limit growing to an indoor activity.

The Commission concurred with this suggestion.

It was the consensus of the Commission that no outdoor growing be allowed; that indoor growing be allowed as a conditional use in the Agriculture, I-R, and I-G districts; that processing be allowed as a conditional use in the I-R and I-G districts, and that dispensing be allowed as a conditional use in the I-R and I-G districts. It was the consensus of the Commission to direct staff to draft the necessary amendments to the Code to enact the changes discussed.

There were no public comments.

Following the lunch recess, Steven Billet, 1137 Liberty Road, asked for an opportunity to discuss the Medical Cannabis issue. Mr. Billet explained that he is a physician with a concierge practice on Liberty Road. He became interested in medical cannabis when he went to a meeting regarding the application process. Mr. Billet indicated he was amazed of the value of medical cannabis and the need. He explained that he has submitted an application to change his office building into a dispensary. Mr. Billet noted that 881 applications were received by the state for 27 legislative districts. He provided a copy of his 85-page application for the Commission's information. Mr. Billet indicated that a dispensary license costs \$40,000 per year.

Chair Helminiak asked that the application be scanned and distributed to the Commission members.

## **ZONING CODE MODIFICATION FOR MASTER PLAN IMPLEMENTATION (INDUSTRIAL DISTRICTS)**

Secretary Hager noted that a Team consisting of Phil Hager, Jay Voight, Clay Black, Tom Devilbiss, Lynda Eisenberg, Mary Lane, and Tim Burke has been meeting regularly to review the Zoning Code for the Industrial Districts, and he reviewed their progress. He distributed a revised Purpose and Intent for the I-1 and I-2 Districts which was previously reviewed by the Commission, along with a list of definitions, and a revised Use Assignment Worksheet.

(Commissioner Weaver left the meeting.)

Secretary Hager asked the Commission to review the handouts in detail and provide any questions to staff in advance of the Commission's next discussion.

**FREEDOM COMPREHENSIVE PLAN UPDATE**

Staff distributed Element 6, Economic Development for review prior to the next work session.

Lynda Eisenberg, Bureau of Comprehensive Planning, explained that staff does not believe the County can achieve the economic development goals with the amount of land that is currently zoned industrial. She discussed the homework assignment that had been given to the Commission at the January 6 meeting.

It was the consensus of the Commission to leave the work maps and questions with staff for review and response at the next work session.

**PUBLIC COMMENTS**

There were no public comments.

There being no further business, the Commission adjourned at approximately 2:30 p.m.

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Secretary

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Approved