

**Planning Commission
MINUTES – Regular Meeting**

**August 31, 2016
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, August 31, 2016, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, R. Campbell, D. Miller, J. Stone, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary. (NOTE: Planning Commission revisions are indicated in red text.)

PUBLIC REVIEW MEETING

Burhans Village – West of North Burhans Boulevard and East of Mitchell Avenue, Rezoning, Case No. ZM-2016-02.

Mr. Wright recused himself from the public review meeting. Mr. Stone assumed the chair.

Staff Report and Analysis: (Copies of the staff analysis and the PowerPoint presentation are in the meeting file.) Historically this property was split-zoned R2 (now RMED) and Commercial General (C2, now CG). During the height of the housing boom in 2006, the owner at the time requested and received a Planned Unit Development (PUD) overlay for approximately 80 townhouse units and was known as Deerfield Knolls. A site plan for the Deerfield Knolls development was approved in 2007, and a grading plan for the development was approved in 2008. Although some clearing occurred on the site at the time, the development never came to fruition. When no further action on the development occurred, the PUD overlay expired two years later (2010). The area was also reviewed during the 2008-2010 Comprehensive Rezonings and rezoned entirely to R2 (RMED’s predecessor) during Phase III Rezonings in 2010.

Burhans Village LLC has filed an application for rezoning on behalf of the property owner, Cavalier Hagerstown LLC. The area proposed for rezoning includes four vacant parcels and platted rights-of-way west of Burhans Boulevard North, east of Mitchell Avenue, and north of Carrollton Avenue. The total area of the proposed rezoning is approximately 6.21 acres. The applicant proposes to rezone the property from RMED (Residential-Medium Density) to RH (Residential-High Density). If rezoned to RH, the plan is to develop the property for multi-family housing.

Under Maryland Law, a piecemeal rezoning of property can be considered only if the applicant can demonstrate that 1) there was a substantial change in the character of the neighborhood where the property is located; or 2) that there was a mistake in the existing zoning classification. The applicant is requesting the rezoning on the argument that there is a mistake in the existing zoning classification because the City did not take into account “i) the negative impact of surrounding land uses on future homeownership, ii) the need for transition zoning between

industrial and less dense residential zoning and land uses, iii) the unique and difficult to develop *[sic]* site in conjunction with the requirements of the Land Management Code, and iv) it failed to accommodate needs that had been expressly recognized as existing in the 2008 Comprehensive Plan and that existed at the time of the comprehensive rezoning.” A copy of the applicant’s complete justification is attached to the staff analysis in the meeting file.

Mr. Rohrbaugh pointed out in his presentation that if the subject property is developed for multi-family, the density would be approximately 10 to 16 units per acre which is less dense than the adjacent established residential neighborhood near Mitchell Avenue (approximately 18 units per acre). In answer to a question by Mr. Stone, Mr. Rohrbaugh indicated that the time frame concerning the “mistake” argument is since the last comprehensive rezoning which was in 2010.

Mr. Rohrbaugh added into the record the advertisement and the Planning Commission’s file by reference. In September this case will come back at the workshop meeting when the commission will be asked to make a recommendation to the Mayor and City Council. A public hearing has been tentatively scheduled for September 27. Mr. Stone asked what staff considered to be the neighborhood. Mr. Rohrbaugh characterized the “neighborhood” as the residential area on Mitchell, Fremont about 200 to 300 feet from the site and the industrial uses, the railroad, which are all adjacent to the property. Mr. Stone questioned what the density limit is for RH zoning. Mr. Bockmiller stated approximately 16 units per acre or one unit for every 2,700 square feet (16.13 units per acres is the absolute maximum).

Applicant’s Presentation: Michael Shifler, Fox & Associates, was present on behalf of the applicant. As part of the rezoning application, a detailed justification for “mistake” was included. Mr. Shifler highlighted the main points of the justification. Several issues could have been considered differently:

- 60% of the property boundary is surrounded by industrial zoning which does not lend itself to home ownership because of the effects of industrial uses;
- Homes would be difficult to sell due to the industrial uses and their effects;
- The irregular shape of the property does not lend itself to a less dense development once rights-of-way and lot lines are created;
- The Comprehensive Plan created an argument for mistake under Policy 2-6 which promotes workforce housing. The proposed use is a partially financed tax credit use for rental apartments targeting working families.

All units will be rental units. Mr. Thomas was concerned about the noise factor from the adjacent industrial uses and what negates that with a rental unit vs. home ownership. Mr. Shifler stated that when someone wants to invest in their own home, those types of effects would be a deterrent for home ownership. Mr. Bockmiller added that the original plan had platted streets. Since the

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Deerfield Knolls PUD was approved in 2008, the requirements for Planned Unit Developments have changed making it difficult to use this property as a PUD.

Public Testimony:

No one was present to offer testimony either in favor of or in opposition to the proposed rezoning.

MOTION: (Campbell/Thomas) I move we leave the record open for ten days.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

MOTION: (Campbell/Thomas) I move we close the public hearing (7:20 p.m.).

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Mr. Wright reassumed the chair.

REGULAR MEETING

Roll Call.

All Planning Commission members were present.

Approval of Minutes:

August 10, 2016 – Workshop Meeting.

MOTION: (Campbell/Thomas) I'll make a motion to approve.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN – Wheeler)

Development Review:

250 Eastern Boulevard (Lot 21, Light Business Park) – David Lyles – Pad-Ready Grass Site, Site Plan/Waivers, Case No. ZS-2016-02.

Staff Report: (Copy of staff report in meeting file) This site plan is for the filling and mass grading of a property dominated by an obsolete stormwater management pond. Recently annexed into the city, this site is located on the north side of the former Food Lion store. No plan of development or proposals for access have been offered.

The applicant is seeking a waiver to defer forest conservation compliance until such time as a site plan for development is submitted for this property. The applicant submitted a forest conservation worksheet, and given the size of the property and absence of trees at this point, compliance amounts to 7,122 square feet (0.16 square acres). Staff has no objection. When a site plan for development is submitted, this could be addressed with street trees, a fee-in-lieu contribution, on-site reforestation, or a combination of any of the above. Because this is a small site, the applicant could opt for using the fee-in-lieu program without obtaining Planning Commission approval. Staff recommended holding off on that as ordinance compliance for required street trees would reduce a fee-in-lieu obligation.

The applicant is also requesting a waiver of the requirement for street trees and sidewalks because the points of access have not been determined at this point. The nature of future development and these improvements may need to be removed depending upon what is proposed for the site.

The plan was routed for review; the only outstanding comment is from the City Engineer. Staff recommended approval, subject to any conditions that may be cited by the City Engineer and approval of the waivers, subject to a condition that a forest conservation plan be submitted with a site plan for development and that that future site plan include sidewalks and street trees along public street frontages.

Applicant/Commission Discussion: Trevor Frederick, Frederick, Seibert & Associates was present on behalf of the developer.

Mr. Wright asked if sidewalks were shown on the plans but not installed, what time frame would the developer have before the sidewalks and trees would need to be installed. Mr. Bockmiller stated that if the requested waivers are not granted, sidewalks would be required at the time site work begins (i.e., filling the “hole”). In the event the site is vacant for a long period of time, Mr. Wright wanted stronger language that would require installation of sidewalks and street trees at a predetermined time. Commission members and staff discussed alternatives for ensuring sidewalks and street trees are installed, regardless of whether the property is developed.

Mr. Bockmiller noted that if the commission approves the waiver that would allow the developer to defer installation for two years, there is nothing precluding them from coming back sooner. Sidewalks and street trees need to be installed within two years. Mr. Bockmiller requested that the grading plan be revised to show the sidewalks and street trees even though they would not be required to install them immediately.

Mr. T. Frederick did not have concerns with the commission’s request for a two-year time limit on the waiver and did not foresee an issue with adding the sidewalks and street trees to the grading plan.

MOTION: (Stone/Thomas) I make a motion to approve the grading plan and grant the waivers requested by the applicant but that the grading plan be revised to show where the sidewalks and street trees will be and that the waiver be for two years.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Rose Hill Cemetery – 600 South Potomac Street – Columbarium, Site Plan – Case No. ZS-2016-06; Forest Conservation Plan – FC-2016-03.

Staff Report: (Copy of staff report in meeting file) This site plan is for the construction of a garden-style columbarium in the southwestern portion of the cemetery along South Potomac Street and south of Washington Confederate Cemetery. A gazebo would be the central architectural feature, with walkways, in-ground interments and above-ground vaults that would be at most approximately five feet tall. Parking spaces would be added along the existing cemetery driveway and an entrance feature would be installed by the parking area being developed.

The applicant requests two waivers:

- Waiver to the requirement for street trees. There are overhead power lines along the frontages adjacent to this area, and the grass strip between the sidewalk and street is unusually narrow. The applicant correctly points out that this is mostly a site plan for landscaping, and the plan meets the intent of providing aesthetic improvements to this area without complying with the “letter of the law” regarding the trees. Staff has no objection to this request.
- Waiver to the requirement for a photometric plan for this development. All lighting will be low-level walkway lighting and some lighting to highlight the gazebo. Otherwise, the site will be non-illuminated. Since the ordinance requires the plan as part of a site plan, a waiver is necessary not to require it. Staff has no objection to the request.

The applicant proposes to meet forest conservation requirements through placing a protective easement on a forest stand area along the southeast property line, adjacent to the Sneckenberger

and Hagerstown Concrete Products properties and the northern terminus of the paper right-of-way of Oak Street. The easement will protect 0.22 acres of existing forest.

The plan was routed for review and all agencies have approved it. Planning staff recommended approval of the site plan, waivers, and forest conservation plan, subject to the condition that the property line and ownership references be added in all appropriate locations on the forest conservation plan and site plan regarding the Washington Confederate Cemetery. This is a separate parcel owned by the State of Maryland. The purchase of the site just after the Civil War obligated Rose Hill Cemetery to care for the Confederate cemetery, but they are separate land parcels, and should be called out individually on the plan, per the Ordinance.

Several years ago the City adopted provisions for protection of cemeteries. Research noted that there are no graves that will be disturbed as part of this project. The only lighting will be low level and with no overhead/area lighting.

Applicant/Commission Discussion: Gordon Poffenberger from Fox & Associates, Inc., was present. Mr. Poffenberger explained the lights will be electric and mostly for aesthetics since the park is closed at night. Parking spaces will be parallel spaces along the cemetery driveway. In answer to a question by a commission member, Mr. Poffenberger stated that Rose Hill Cemetery is systematically removing sections of the perimeter fence so they can be powder coated.

MOTION: (Campbell/Miller) I'll move approval with the waivers.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Mid Atlantic Veterinary Hospital – 1125 Professional Court – Addition, Site Plan/Waiver, Case No. ZS-2016-07.

Staff Report: (Copy of staff report in meeting file) This site plan is for the construction of an addition to the rear of the existing veterinary hospital and additional parking and driveways. The irregularly shaped addition will be 89 feet at its widest, and 54 feet at its deepest. The enlarged use requires 39 off-street parking spaces, and 39 are provided. A low, curved wall is shown in the front yard across the front of the building. This wall is proposed to screen utilities such as the electric transformer, and may be used for freestanding signage in accordance with current requirements. If the developer decides to use the wall for signage, the existing freestanding sign would need to be removed. Forest conservation does not apply to this project.

The applicant is seeking a waiver for the required six-foot planting strip along the side and rear of the building. Staff has no objection to this because the landscape buffer along the rear of the parking lot is five feet more than the ordinance minimum of ten feet; and the buffer along the

east property line (where the exit driveway will be located) varies from 13 to 20 feet in width, when the ordinance only requires ten feet. Also the building is set back 60 feet from the right-of-way of Professional Court when the front setback requirement in the POM District is only 15 feet. On a net basis, this development provides more buffering and landscaping than only strict compliance with ordinance minimums would require.

The plan was routed to all review agencies; and all agencies approved the site plan. The Planning and Code Administration Department recommended approval, subject to the condition that the photometric plan and light cut sheets be incorporated into the plan. Any page numbering adjustments needed to accommodate this must be made in the plan. The photometric plan was done by a separate engineer and submitted as a revision to the plan after PRC comments, but needs to be incorporated into the plan itself. Planning staff recommended approval of the waiver request.

Applicant/Commission Discussion: Norm Morin, BFM Architects, was present on behalf of the developer. Mr. Brubaker noted that the labeling on the site plan for the new entrance needs to be corrected to show that it is an exit only. Mr. Morin told the commission that street trees will be added and the entire building will be integrated so it appears homogenous. Mr. Bockmiller pointed out that the pedestrian ways will connect.

MOTION: (Stone/Campbell) I'll make a motion that we approve the plan, grant the waiver regarding landscape plantings, subject to the corrections mentioned by Mr. Brubaker, and the photometric plan.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

**ESD Stormwater Management Concept Plan – Interface Development – West Side
Garland Groh Boulevard (Lot 6A).**

Staff Report: (Copy of staff report in meeting file) This sketch plan is for the triangular-shaped parcel recently created from the Aschenbach tract on Garland Groh Boulevard. The plan calls for a 19,054 square-foot grocery store, a 4,875 square-foot fast food restaurant, and a gasoline fuel station with a 1,165 square-foot control building/store. The ordinance requires the following number of spaces per use for a total of 151 required spaces:

- Grocery Store 89 spaces
- Fast Food Restaurant 59 spaces
- Convenience/gas 3 spaces

A total of 156 parking spaces are shown on the plan.

The applicant has been advised that there is an access fee due on this property to the State Highway Administration (SHA). That fee will need to be remitted prior to submission of a site plan for development. When the Garland Groh Boulevard corridor was developed, the developers had to get permission from State Highway Administration for access to Route 40. An arrangement was made that SHA would be paid when entrances were requested on Garland Groh Boulevard.

Staff identified no specific design waivers needed as part of the initial review. Staff strongly recommended against permitting this development pattern without designing for potential connection to the frontage road that runs across the front of the adjacent Walmart property. If a potential connection is designed into this development, the City may require future connection by Walmart or its successors at such time as they may approach the City for some plan or permitting approval on their site. Staff believed the opportunity to connect to the Walmart site at some future date should be preserved in the design of this site. Additional language may need to be added on the site plan. Staff deferred to the Assistant City Engineer regarding suitability of the design.

Staff also has concerns about whether the number of parking spaces provided is sufficient given that the proposed fast food restaurant is a Chick-fil-A. The Chick-fil-A restaurant on Wesel Boulevard has 65 parking spaces and is frequently overwhelmed. Staff speculated that construction of a second location in Hagerstown could take some pressure off of the existing location. However, if demand for this restaurant is comparable to the current demand for the Wesel Boulevard facility, the 53 spaces immediately around this restaurant and the five adjoining the gas station site may not be sufficient to meet demand for this facility. Staff reiterated that the proposed number of parking spaces meets the minimum ordinance requirements.

Applicant/Commission Discussion: Mr. Wright asked if the commission has the authority to require additional parking even though the proposed plan meets ordinance requirements. Since the property will not be subdivided all parking will be shared. Commission members were concerned about the layout of the Chick-fil-A site.

The assistant City Engineer, Jim Bender, was in attendance to present his concerns (report included in meeting file). Mr. Bender's office has no issues with the stormwater management concept for this plan. The primary concern is that there does not appear to be a comprehensive plan for this parcel and the adjacent parcel behind the Bulldog Federal Credit Union property. His office has been asking for an overall plan. Since one has not been provided, the City Engineer's office is concerned that there is no comprehensive plan on how all the traffic will flow between properties.

Another major concern is the proposed right-in-right-out between the proposed gas station and the fast food restaurant. The City's access management policies specify distances for separation

of driveway entrances. Garland Groh Boulevard was designed for 40 mph traffic. At that speed, the policy states entrances cannot be closer than 50 feet apart. None of the separations on the proposed plan meet the City's requirements. As part of the Aschenbach site, a traffic study was done to show how access could be managed for all of the properties and whether a traffic signal would be required. The traffic study indicated that a signal would be warranted but only at full build out. The logical entrance appears to be the existing drive adjacent to the Bulldog property. The City Engineer's office does not see a need to add additional entrances onto Garland Groh Boulevard. If the right-in-right-out is eliminated from this plan it changes the entire configuration.

Mr. Stone asked if the developer will be required to pay for the signal. Mr. Bender said there has been discussion about forming a road club where signal improvements are prorated, but that has not been finalized.

Concerning circulation, Mr. Brubaker noted that the only way to get into the development would be through the existing Bulldog driveway since Walmart will not allow a cut through from their property. He asked whether a signal could be justified for only the three land uses. Mr. Bender stated that his office has consistently supported the idea of a future connection to the Walmart property and feels strongly that the connection needs to be included. Commission members concurred with the City Engineer's statement about the connection between this site and the Walmart property.

Fred Frederick of Frederick, Seibert & Associates, Inc., was present on behalf of the developer. He stated that the best option for the connection point is shown on the plan. They also understand the need for connectivity; however, Aschenbach will not own the property until the site plan has been approved. At this point there are no signed leases with the three tenants. The potential tenants have indicated they will not sign leases until there is a traffic signal at the intersection. Chick-fil-A has its own engineers and those engineers designed that site. Deliveries to Chick-fil-A sites are done by key drop, and product is only delivered when the restaurants are closed. Murphy Oil is the only tenant that wants the right-in-right-out and that entrance would only benefit them.

Mr. Bender discussed the City's policy regarding traffic signals and when signals are warranted. Signals may benefit developers, but they slow traffic flow on city streets. Commission members had strong concerns about the City Engineer's office not allowing a signal to be installed until it is warranted. Citing the AC&T site further north on Garland Groh Boulevard, the Planning Commission insisted on the signal. Mr. Bender argued that the City of Hagerstown takes on the liability if the signal is not warranted. Commission members agreed that the right-in-right-out entrance should be eliminated, however, members insisted on the signal.

Mr. Frederick introduced Neil Parrott, the developer’s traffic consultant. Mr. Parrott stated that the forecast shows if the Bulldog driveway is made a full access, motorists in the shopping center across the street would bypass the signal at Hagers Crossing Drive and use the Starbucks access instead. He has discussed this site with the City and agrees with the volumes. Mr. Parrott was confident they can justify the signal and then vehicles on the west side of Garland Groh would benefit.

Mr. Stone observed that there was consensus that the right-in-right-out is not appropriate in this situation. In terms of the concept plan, the commission could act on it on the basis of what is shown; the issue of the signal could be addressed at the site plan review.

Mr. F. Frederick stated that all comments received from the review agencies have been addressed. The traffic study will be submitted soon. Concerning interconnectivity, Mr. F. Frederick stated that what is shown on the plan is the best they can do. Chick-fil-A will be providing Mr. F. Frederick with turning movement calculations because they have the key drop. Concerning the access in the rear of the site, no connection is ~~contemplated~~ **will be provided**.

- MOTION:** (Stone/Campbell) I move we approve the sketch plan but without the right-in-right-out entrance.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

301 West Howard Street – Waiver Request from Parking Lot Design Standards.

The applicant was not present.

Planning Commission Business:

Comprehensive Plan Update: Water Resources Element.

(Packet memo is in the meeting file.) This is a follow-up on the Water Resources element from the August 10 Planning Commission meeting. Based on comments received at that meeting as well as from the Utilities Staff, the following changes were made to the element:

- Page 4-2: Per Utilities, added an updated photo of the Wastewater Treatment Plant.
- Page 4-14: Per Utilities, updated water demand figures. In 2015 daily water demand was 500,000 gallons/day (11.8 MGD vs 11.3 MGD). This affects data concerning future water capacity, and the subsequent tables have been amended.

- Pages 4-15: Updated peak annual demand and daily demand figures.
- Page 4-17: Updated figures in Table 4-7 to reflect higher daily demand (70,000 EDUs – previously it was 67,500 EDUs). As a result the capacity deficit is projected to be higher than previously reported.
- Page 4-17: Updated information concerning Edgemont reservoir per Utilities’ comments.
- Page 4-18: Updated figures in Table 4-8.
- Page 4-19: Per Utilities, updated the paragraph “Distribution System.”
- Page 4-23: Per the Commission’s comments, clarified that growth scenarios are from Chapter 2.
- Page 4-23: Clarified in Table 4-10 that growth scenarios are from Chapter 2.

The Planning Commission had no comments on the changes made by staff.

Adjourn. It was moved and seconded that the meeting adjourn (8:50 p.m.)

9/28/2016

Approved



Debra C. Calhoun - Secretary