

**Planning Commission
MINUTES – Regular Meeting**

**January 27, 2016
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, January 27, 2016, in the Council Chamber, Second Floor, City Hall. Also present were commission members M. Brubaker, R. Campbell, D. Miller, and R. Thomas. The following staff members were present: K. Maher, Planning Director; S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.

REGULAR MEETING

Roll Call.

Commission members J. Stone and J. Wheeler were absent.

Approval of Minutes:

January 13, 2016 – Workshop Meeting.

MOTION: (Thomas/Miller) So moved (to approve the minutes).
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Brubaker)

Development Review:

Preliminary Consultation: 808-810 Mulberry Avenue – Proposed Minor Subdivision.

Staff Report: (Copy of staff report can be found in the meeting file.) Planning staff will be receiving an application for a proposed subdivision plat for a two-family dwelling at 808-810 Mulberry Avenue, which is zoned R-MED (Residential-Moderate Density). The proposal is to subdivide the duplex down the party wall of the duplex and create two separate properties. Division of two-family dwellings into two separate parcels (each with half of a duplex on it) is relatively common across the city; and the City of Hagerstown generally encourages these subdivisions because they create more opportunities for homeownership.

Typically City staff reviews minor subdivisions and approves them administratively, unless a waiver from the Planning Commission is needed or staff believes the subdivision is of a unique nature and should be reviewed by the Planning Commission. The proposed subdivision falls into the latter category.

This proposed subdivision is unique due to the configuration of the two existing garages at the rear of the property. Both garages sit on the “810” side of the property and both exit across the “808” side onto Manila Avenue. It is the owner’s desire to keep both garages and convey one garage to “808” and another to “810.” Additionally, because of how the line of subdivision will be drawn, the garage belonging to “810” would not have direct access to a public right-of-way. To remedy this, the owner is proposing a shared access and maintenance easement across the rear portions of both properties to ensure access to both garages, as well as the walkway to the houses (the easement area is shown on the attached drawings). Staff and the property owner reviewed this proposal previously and looked at possible alternatives; however, the proposal as shown is the only course of action that enables the conveyance of a garage to each property.

Commission/Applicant Discussion: Mr. Thomas questioned why a shared-access strip is needed along “808” because the resident can walk anywhere they want to get to access the garage. It was noted that the shared access is not necessary the entire length of the property. Ted Lapkoff, owner of the property indicated that the easement is for the “810” side of the duplex. Mr. Lapkoff said there is an existing shared sidewalk that serves both sides of the duplex that provides a solid-surface walkway for residents. After discussing multiple scenarios, commission members felt the best solution would be to eliminate the easement on the walkway on “808.” The future owner of “810” can either build their own sidewalk or install pavers. Otherwise, the commission believed this was a useful solution to make this property more saleable. It was noted that a portion of the southern garage is in the public right-of-way and is an existing condition. The easements will be recorded as part of the plat. The existing parking lot is currently gravel.

Commission members had no concerns with the proposed minor subdivision as long as the easement for the sidewalk is removed.

Planning Commission Business:

2016 Land Management Code Text Amendments Package.

Mr. Bockmiller began presenting proposed amendments to the Land Management Code (copy of staff report and proposed amendments are in the meeting file). There are no major policy issues involved and for the most part address errors or oversights in the existing ordinances. Staff and commission discussed the following amendments:

A. All merchandise, inventory and supply display and storage should not be permitted up to rights-of-way and property lines.

The proposal is to Amend Article 5, Section I and Article 4, Section K, to create a buffer area between property lines and areas used for outdoor storage of inventory, merchandise and

supplies. Commission members commented that the language in these sections needs to be clarified, including deletion of the last portion of the last sentence in Article 5.I.11 (“This provision shall ~~also~~ be applied for properties where a site plan is not required for a new or expanded use which introduces outdoor storage to an area. ~~, regardless of whether a site plan is required for the proposed use.~~”) In Article 4.K.17, the last portion of the last sentence should be deleted (“This provision shall ~~also~~ be applied for properties where a site plan is required for a new or expanded use. ~~as well as when a site plan is not required for the proposed use.~~”)

Mr. Brubaker asked if the buffer requirement should be greater if a commercial or industrial use is adjacent to a residential use since regular buffer requirements for these situations is required (i.e., 60 feet where industrial uses abut residential uses). Mr. Bockmiller will reanalyze these amendments and bring revised language back to the commission at the next meeting. Mr. Wright asked him to re-write both sections for clarity.

B. Tents for special events should comply with setback requirements for the district in which they are located.

Staff is proposing to add a new subsection under Article 4, Section K, “Event and Assembly Tents.” Since these temporary uses can be very large, staff questioned whether they should be subject to setbacks. Currently there is language in the ordinance that addresses “Temporary Uses” and requires notification to adjacent property owners. Utilization of the temporary use process eliminates the Board of Zoning Appeals public hearing process. Mr. Wright had concerns about applying building setbacks for a temporary use. His main issue would be whether sight distances at intersections would be impaired. Most commission members expressed concern about addressing this type of issue before it becomes a problem. Commission members wanted to add a definition of “temporary use” and recommended deleting the words “building setback” from the first line.

C. Historically, the City has not held retaining walls to setback requirements, but if the toe of a wall is right up to the property line, there is no room for maintenance of the wall from the lower side.

This amendment would be added to the section regulating fences and walls (Article 4.K.1) and would require a three-foot setback for the base of any retaining wall from adjacent property lines and street and alley rights-of-way. Mr. Thomas stated that the setback should match other setbacks. Mr. Brubaker observed that machinery used to repair retaining walls is typically large and three feet may not be an adequate amount of space. Mr. Bockmiller stated that currently there is no setback for retaining walls. Commission members suggested increasing the height of the wall that would necessitate providing a setback from three feet to

six feet. Affected retaining walls would be those proposed for commercial, industrial, or multi-family uses.

D. Front yards of single-family homes and duplexes should not become parking lots.

This amendment would prohibit creating parking lots in front yards, which negatively affect streetscapes. This amendment would not preclude a driveway or a parking pad at the end of a long driveway in the back yard. Planning Commission members had no concerns about this proposed amendment. Ms. Maher noted that staff will need to work out issues with the City Engineer concerning vehicles backing out onto certain classifications of roads.

E. Residential development on lots and parcels that do not front a public street.

Language needs to be consistent with the residential zoning districts. The Planning Commission had no concerns about this proposed amendment.

F. Satellite Simulcast Betting Facilities. Staff received an inquiry about whether this use would be permitted in the City. They are regulated and licensed by the state, however, that regulation does not pre-empt local zoning law.

Staff is proposing to allow this use in the CC-MU (City Center-Mixed Use) district. It is an entertainment use that draws patrons from out of the area. Planning Commission members had many questions, including the typical size of these facilities and whether parking would be adequate downtown. Staff was directed to research this matter further and bring it back for discussion at the next meeting.

G. The provision of allowing up to 240 square feet of sheds, in addition to a 900 square foot garage is confusing to the public and difficult to administer.

Staff is proposing to remove the 240 square foot provision for sheds and cap accessory uses at a cumulative total of 900 square feet. Article 4.G.b. would be amended to read, “Private detached accessory buildings cumulatively totaling not over 900 square feet.” Planning Commission members had no concerns about this proposed amendment.

H. Is “beekeeping” covered by the limitations on livestock?

Under this proposal, the production of honey would be added to the definition of “livestock.” Planning Commission members had no concerns about this proposed amendment.

- I. There are developments that have approved setbacks that differ from the standards. Mistaken information can be given to the public if the staff is not aware of the history of the development.**

This item is for discussion only and will not be included in the 2016 amendment package. Staff suggested adding a section to the setback section on residential districts that enumerates the out-of-the-ordinary setbacks. An example of some of these developments includes Hager’s Crossing 1 and Collegiate Acres. Planning Commission members had reservations about putting these figures in the ordinance. The onus should be on the property owner to determine the proper setbacks. Members did agree that a disclaimer should be added that it is the property owner’s responsibility to thoroughly research what the recorded setbacks are, if any. Ms. Maher noted that Hager’s Crossing 1 is a PUD and PUDs are approved by the Planning Commission under the rezoning process. Mr. Wright felt adding language about subdivisions would create a liability issue for the City. Ms. Maher stated that another issue arises when a subdivision is started by one developer, but completed by a second one. Setback deviations rely on staff institutional knowledge.

- J. The backs of the apartments at The Reserve at Collegiate Acres are side setbacks as recorded on the plats.**

This amendment would increase side setbacks and require apartment developments that abut any property line which has the rear or “long axis” of an apartment building facing it to be treated as a rear setback for the building. Mr. Wright questioned how you can “legislate good market sense.” In the example above, Mr. Bockmiller explained that the buildings are three stories tall with steep roofs; however they are setback only ten feet from the side property line. In addition, the Zoning Ordinance allows five-story buildings in this district (RH – Residential High Density). Commission members observed that a larger setback would reduce the amount of available land for development. Mr. Brubaker suggested a sliding scale based on the height of the eave of the roofline. The Light Business Park has setbacks related to height. Staff was directed to survey other jurisdictions and bring this back for further discussion.

- K. In the POM (Professional Office Mixed) zoning district, “tanning and depilatory salons and haircare” are not subject to the 25% cap for commercial uses in the POM.**

This language was included in the ordinance at one time and was “lost” at some point. It needs to be added back in to be consistent with the other uses with the 25% cap. Planning Commission members had no concerns about adding the language back in.

L. Our regulations are inconsistent with the state regarding home day-care.

Staff suggested amending the City’s language to be more in line with the state regulations, which allow up to eight children in addition to the children or relatives of the resident provider. It also would permit back-up care providers in the event that the resident provider is unavailable due to vacations, emergencies, etc. The state typically does not issue licenses for the full eight children. Ms. Maher added that in the past the City did not regulate home day-care providers and left it up to the state. However, within the last five years, the City amended its regulations to include home day-care uses. Mr. Wright did not believe the City’s ordinance had to match the state’s regulations. Many commission members believed that eight children, in addition to any children of the provider or the provider’s relatives, is too much. Vehicle trips to the house could cause a strain on the neighborhood. Mr. Brubaker asked staff to inquire about the state’s minimum square footage requirements for providers that are approved for eight children and to find out what it takes to be licensed for eight children. Mr. Bockmiller noted that only a handful of providers in the city are larger than the City’s current regulations. Mr. Thomas observed that some ordinances require “x” number of adults per “x” number of children.

Discussion will begin with Issue M at the next meeting.

A C & T – Garland Groh Boulevard.

Mr. Miller said since the last meeting he drove around the A C & T site. He said the commission needs to take another look at the site plan and landscape plan. There is no grass now, even though there are many opportunities on this site to plant grass. Mr. Miller said he read the minutes from the last meeting, and the discussion seemed to indicate that the commission would agree to look at plans that deviate from the approved site plan and landscape plan. He felt strongly that the commission require the developer to follow the approved landscape plan. Mr. Bockmiller noted that at the last meeting, the commission directed staff to work with the developer’s engineer to rework the landscaping. He can relay the commission’s desires when he meets with the engineer.

Adjourn. It was moved and seconded that the meeting adjourn (8:35 p.m.)

2/3/2016
Approved


Debra C. Calhoun - Secretary