

Douglas S. Wright, Jr., chair, called the meeting to order at 4:00 p.m., on Wednesday, September 14, 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.

**Burhans Village – West Side of North Burhans Boulevard, East of Mitchell Avenue – Rezoning, Case No. ZM-2016-02 – Recommendation to Mayor and City Council.**

Mr. Wright recused himself from this discussion; Mr. Stone assumed the chair.

Staff Report: (Staff memo is in the meeting file.) A public review meeting was held on August 31, at which time the record was left open for ten days to receive additional comments. Staff reported that no comments were received during this period. During the public review meeting the applicant's engineer, Michael Shifler, conveyed the arguments for mistake that the applicant's attorney submitted with the application. Mr. Shifler also mentioned that under the existing RMED (Residential-Medium Density) zoning the property would be difficult to develop for owner-occupied housing due to subdivision design requirements (such as street rights-of-way and minimum lot size and dimensions), and the property's irregular shape. Mr. Shifler pointed out a need for workforce housing in Hagerstown that he felt could not be developed under RMED zoning. Mr. Rohrbaugh pointed out a statement from the justification of the Findings of Fact when the property was rezoned to R2 (RMED) during the comprehensive rezoning in 2008-2010. He believed it would be helpful during the commission's deliberations to provide insight on why the property was rezoned to R2.

Commission/Applicant Discussion: Mr. Thomas stated that he was not convinced there was a mistake in the zoning. The decision was based on the information presented at the time (to the Planning Commission, staff, and Mayor and Council) and was appropriate considering there was industrial zoning on one side and RMED zoning on the other. The current circumstances do not indicate there has been a change in the neighborhood. Mr. Thomas indicated that he was not opposed to the plans, but hesitated to agree that the City made a mistake. Ms. Wheeler observed that in the change or mistake criteria, if we were staying within the same general category of zoning (in this case residential), the threshold is lower. Ms. Campbell agreed with Mr. Thomas that the zoning should be changed and noted that the proposed rezoning to RH (Residential-High Density) would yield a lower density than the adjoining RMED neighborhood. Mr. Bockmiller reminded the commission that in order to rezone the property, an argument must be made for change in the neighborhood or mistake in the zoning.

Mr. Stone felt the argument as presented by the applicant was weak. If there is a mistake, the plan would have suggested that the property be rezoned to R2 at the time, which it was (rezoned in accordance with the Comprehensive Plan). Mr. Rohrbaugh stated that the Future Land Use Plan in the 2008 Comprehensive Plan showed the property split between medium-density residential and commercial uses. During Phase III of the Comprehensive Rezoning, the property was rezoned entirely to R2, due to the PUD overlay still being in effect. He felt the question would be, did the City make certain assumptions when the property was last rezoned, that subsequently turned out to be wrong or invalid.

Ms. Wheeler felt that an argument could be extended to address the marketability and the desire to stay with homeownership and that the City did not take into account there may be a barrier to long-term investment by individuals when you have a large amount of industrially zoned property adjacent to the site. Ms. Campbell agreed that location next to industrial properties and the railroad tracks could be an impediment to a homeownership development. If the zoning remained RMED, it is questionable whether another developer could get the same density or that it could be developed at all based on current ordinance requirements.

Mr. Stone recalled a comment made by staff at the public review meeting concerning the PUD that was in place and how it would not have worked today because it did not have enough commercial uses. Mr. Bockmiller stated that the PUD was dissolved since it did not develop within the required time frame. If a developer was to apply for the same PUD design on this property today, it could not be done because not only would it need to have residential and commercial uses, there would need to be different types of residential uses. Mr. Stone stated that one of the features that was attractive to him when the City approved the PUD was the requirement for more detailed specifications for the planned development and that there is more control over the type of development. The thrust of that PUD was that it was going to be owner-occupied housing which was very desirable. The current proposal is for rental units and not home ownership. Mr. Stone asked if there is enough discretion within the PUD ordinance that would permit a single-family housing development that had a commercial component. Based on the current PUD requirements, Mr. Bockmiller stated that the subject property is too small and irregularly shaped to be developed into a PUD. Mr. Stone was not sure the type of mistake being proposed is the kind of mistake contemplated in the ordinance. Mr. Miller noted that this site does not lend itself to typical single-family development. The Comprehensive Plan specifies residential development and the proposal is for residential development.

Mr. Stone suggested that an argument could be made that this site would be difficult to develop for single-family or townhouse dwellings almost anywhere because of its topography and its shape. It would be a challenge to develop anywhere in the city. Mr. Bockmiller stated when the property was rezoned it was more of a “map beautification” effort because it was a split-zoned property on which there was a viable residential PUD overlay. The commission did not foresee that the PUD would be dissolved and that the ordinance requirements for PUDs would change in the meantime.

Mr. Brubaker noted that not only does the applicant have to prove change or mistake, once that is established, then there must be a determination of what is the best zone for the property.

Mr. Stone added the second part is more logical given that the Comprehensive Plan indicates “residential” for this area; industrial and commercial are not feasible. Based on that, high-density residential is the best choice. The commission assumed incorrectly that the PUD would build out and that the commission did not foresee that the regulations would be tightened up in such a way that makes a PUD not feasible for this property.

**MOTION:** (Campbell/Thomas) Mr. Chairman, I move that we recommend to the Mayor and Council that the zoning be changed to RH, based on mistake in the zoning in that the commission did not foresee that the PUD would be dissolved and that the ordinance requirements for PUDs would change in the meantime. The commission further finds that the most appropriate zoning classification is RH for this property, given the site constraints and adjoining industrial and railroad uses.

**DISCUSSION:** None.

**ACTION:** APPROVED (ABSTAIN – Brubaker, Wright)

The public hearing with the Mayor and City Council has been scheduled for September 27.

### **Comprehensive Plan Update: Economic Development Element.**

Staff Report: (Staff memo and draft text are in the meeting file.) Jill Frick, Director of Community & Economic Development, was present. Mr. Rohrbaugh stated that many elements of this section will carry over to other portions of the plan. This element is a gathering place for economic development issues and general economic development in Hagerstown. It touches on employment, land availability, revitalization incentives and initiatives, educational attainment and poverty, and regional spending.

The basic structure of this element has not changed since the 2008 plan, however, much of the economic data has been updated using the American Community Survey from the early- to mid-2010s. Substantive changes include the addition of sections on workforce patterns of Hagerstown residents, educational attainment and poverty of city residents, the addition of major retail shopping center occupancy patterns over time, and a recommendation to establish a Community Revitalization Improvement Zone (CRIZ) in downtown.

#### Goals, Issues, Policies and Actions.

Page 1 of 2:

- Policy 3-2 – Mr. Wright had an issue with the language “(those with fewer than 200 employees).” He stated that there are not many businesses in Hagerstown that employ

more than 200 workers. The City needs to focus more on businesses that employ 20-50 people. Commission members agreed with Mr. Wright. Ms. Frick clarified that the “200” figure is from the Small Business Administration. Ms. Wheeler cautioned that since this is standard industry language, a distinction should be made because some readers of the plan will understand what that means. The policy will be amended to remove the language in the parentheses referenced above.

- Mr. Stone highlighted the need to have a larger share of owner-occupied housing in the city. That goal should be one of the highest priorities. Even though this issue is discussed in the Housing & Neighborhood Element, Ms. Wheeler felt it could be tied into this element with a discussion about travel times to work. Mr. Stone was content with this issue being addressed in another element. Mr. Wright felt there will be more interest in locating west of Frederick County due to dropping gas prices.
- Policy 3-6 – Ms. Campbell asked if “minority” includes LGBT business owners. She also pointed out that millennials are taking longer to purchase homes.

Page 2 of 2:

- Action 3-3 – Mr. Wright recommended that the City consider smaller lots in business parks. In Action 3-3 on page 3-12 in the text of the element, the suggestion for smaller lots was removed; Mr. Wright recommended that that language be reinstated. Any new industrial park should take smaller companies (those that employ 20 to 50 workers) into consideration rather than creating large lots of five or more acres. He recommended lots of five acres or less if a park is pre-subdivided.

Economic Development Element.

Page 3-1:

- A new issue was added (#6) identifying the challenges of high unemployment and concentration of poverty in the city;
- Correct the typo (“or” should be “and”).

Pages 3-2 and 3-3:

- On page 3-2, Mr. Wright asked that both the percentage of workers and the percent change be shown; the arrows in the last column do not demonstrate the drama of the change and should be removed.
- Concerning identification of industries that are growing and industries that are declining in the region, Mr. Stone believed more effort should be put into some of the industries that are declining or conversely if an industry is rising that we focus more on it. Staff should look at this industry by industry to see what would have the most economic value for the community. (Mr. Stone left the meeting.) Mr. Wright stated that if there are

certain sectors that are finding Hagerstown attractive, the City needs to build on that for more investment and growth, unless it is an industry that puts a strain on the City's infrastructure or does not pay competitive wages. If you see an industry willing to spend money to come here, City officials need to look at the reasons why and find similar companies.

- On page 3-2, Mr. Wright questioned whether Table 3-1 and Figure 3-1 are the same. The title of Figure 3-1 will be changed to make it clearer. In addition, labeling should be consistent with the data; needs to be easily compared between the two tables.
- Concerning the employment rate data, staff will investigate whether there are more recent employment figures available, but will probably hold at 2014-2015 because those are the figures used for most of this element.
- On page 3-3, the first sentence should read "Figure 3-1 compares employment ~~rates for~~ *in* various sectors in Hagerstown to other jurisdictions."

Page 3-4:

- Two new charts were added: "Downtown Employment Count (2012)"; and "Patterns of Hagerstown's Workforce." Table 3-3 at the bottom should be relabeled to Table 3-4.
- Need to settle on one nomenclature for tables and figures.
- Second sentence under "Workforce Patterns." This sentence needs to be reworded for clarity. Staff will work on the language. The important point to include is that 27% of the workforce works outside of Washington County.

Page 3-6:

- Staff noted that in this section, "education" refers to any kind of training, including technical training and Associates degrees. (Mr. Miller left the meeting.) In answer to a question by Mr. Wright, Ms. Frick stated that her department works with several agencies with regard to the issue of educational attainment. Her office parallels Greater Hagerstown's new initiative called OnTrack which is broken down into three areas: early childhood, midlevel, and workforce development. Locally, educational attainment is at just under 33%. At Hagerstown's growth rate, by 2025 the city will need 60% but Hagerstown's attainment will only be at 40%. In the future, Hagerstown's population will not be sufficiently educated to meet industry demand. Mr. Wright wanted to know how the City's EDC office is involved with educational attainment. Ms. Frick stated that the City is a partner on the OnTrack program, along with the school board, Washington County, and local nonprofits. Greater Hagerstown is taking the lead in involving local stakeholders around the issue. There is a workforce committee on the Washington County Economic Development Commission. Mr. Thomas observed that once these initiatives take hold there needs to be jobs available for the newly trained. Mr. Brubaker added that the city's lack of educational attainment is a negative with research and development firms looking to locate in Hagerstown. We do not have trained workers to

fill jobs so these types of companies will not locate here. Ms. Frick noted that Hagerstown Community College has a promise program—if a student who is a resident of Washington County goes through the program, they are guaranteed that their education will be paid.

- Ms. Campbell noted that if students coming out of poverty want to get an education, they need to have transportation to and from classes. Public transportation is expensive. People at lower income levels need help on all fronts to become vital to the community.

Page 3-6:

- Grammatical change on last line: change “has” to “have.”
- Commission members discussed the future impact of the new outlet center in Clarksburg on the Premium Outlets. It was the general feeling that the retail climate will slip in the next few years. Ms. Campbell pointed out that prices might still be lower in Hagerstown than Clarksburg because of the area. Ms. Wheeler was concerned about what is happening in the retail market overall in the area. Area residents are losing their ability to acquire certain kinds of goods. Online purchasing is becoming more popular.

Page 3-7:

- Ms. Wheeler pointed out a disconnect at the bottom of page 3-7 about incentive programs for minority and women-owned businesses. Staff will redraft this paragraph to be consistent with the “Action.” Ms. Frick stated that there are no specific incentives for minority- and women-owned businesses, however, they are directed to federal and state programs.

Page 3-8:

Staff members explained the Community Revitalization Improvement Zone (CRIZ) incentive program proposed for the downtown area. This is an incentive used in Pennsylvania and a version of it benefitted Allentown. Under a CRIZ, state and local taxes generated by projects in the CRIZ would come back to the zone to help with debt for the projects in the zone. The initiative was not approved in the past legislative session; however, staff will try again next year. It redirects new tax money into local initiatives and targets relocation of new businesses into the state. The program has made a huge impact on Allentown and now other towns such as Lancaster are using the CRIZ.

Commission members agreed to keep the CRIZ language in the element.

- Third paragraph, it should be noted that Tables 2-6 and 2-7 are in Chapter 2.

Commission members were satisfied with the remaining portions of the Economic Development Element. Mr. Rohrbaugh will make the changes discussed and bring it back to the next meeting.

**Announcements.**

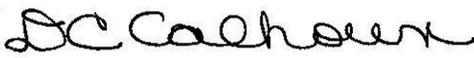
**Maryland Planning Commission Association.**

Mr. Wright reminded members about the annual meeting in Frederick on October 27 and October 28.

**Adjourn.**

It was moved and seconded that the meeting adjourn (5:58 p.m.)

10/5/2016  
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Approved

  
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Debra C. Calhoun - Secretary