

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, November 18, 2015, 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:

October 14, 2015 – Workshop Meeting.

The minutes were not available for approval.

Development Review:

362 Virginia Avenue – Byers Commercial Properties, LLC, Final Plat, Case No. S-2015-05.

Staff Report: (Copy of staff report can be found in the meeting file.) This subdivision is for the conveyance of right-of-way of Park Circle to an adjacent property owner due to that right-of-way no longer being needed by the City. This plat will remove the existing interior lot lines on the property creating one single property. The total area of the new consolidated lot will be 0.304 acres. The property appears as and is used as a single developed property, currently occupied by a veterinary hospital. All agencies have reviewed and approved the plat; staff recommended approval.

Commission/Applicant Discussion: Commission members questioned whether the owner of the veterinary hospital is agreeable to accepting the additional land and about the location of curb cuts. The owner is aware and agreeable to the additions to his property.

MOTION: (Brubaker/Campbell) I'll move approval.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

540 and 520 Western Maryland Parkway (Lots 1A-R and 2A-R) – Exeter Property Group, Minor Subdivision, Case No. S-2015-07.

Staff Report: (Copy of staff report can be found in the meeting file.) This subdivision is for the relocation of an existing interior lot line between two lots. The parking lot for the rear-most lot is the front lot. This resubdivision will place the parking for the rear lot entirely on that lot. This proposal will incorporate 1.548 acres of land currently on Lot 2A-R into Lot 1A-R. All parking for future development of Lot 2A-R (which is currently unimproved) would be addressed when a site plan is submitted for development of that lot. There are outstanding comments from the Wastewater Division. Staff recommended approval of the plat, contingent upon satisfaction of the outstanding Wastewater Division comments.

Commission/Applicant Discussion: Mr. Wright questioned the forest conservation and whether the forest in the rear covers both lots. Mr. Bockmiller clarified that this is a state forest conservation area which was put in place before the City of Hagerstown had its own forest conservation ordinance. In response to a question by Mr. Brubaker, staff stated that both lots in question are under common ownership.

MOTION: (Miller/Thomas) Make a motion to approve, subject to Wastewater Department comments.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Shentel – 1270 Kenly Avenue (City Farm) – Minor Site Plan, Case No. SA-2015-04.

Staff Report: (Copy of staff report can be found in the meeting file.) This site plan is for a proposed cell tower on property owned by the City at the eastern terminus of Kenly Avenue (the City Farm), which is zoned IR (Industrial Restricted). The plan calls for the construction of a 199-foot high monopole, a 55 x 55-foot compound enclosed with six-foot tall chain link fencing, a 10 x 16-foot concrete pad, and supporting electrical and telecommunications equipment. Landscaping around the compound is in accordance with Section Q of the Zoning Ordinance. Access to the site will be via an unpaved access road within a 20-foot wide access easement. There may be three additional concrete pads in the future.

The proposed development meets the minimum setbacks and maximum height restrictions for new wireless communication facilities in the IR zoning district. Telecommunications and electric service will be provided underground through a 50-inch deep by 8-inch wide trench along a proposed five-foot wide utility easement. The trench will be created using compact trenching methods (such as a “Ditch Witch”) which, according to staff’s understanding, will keep the limit

of disturbance under 5,000 square feet for the project. Otherwise, any disturbances over 5,000 square feet would require an erosion and sediment control plan.

Section Q of the Zoning Ordinance requires that if a new wireless communication facility is constructed the applicant must submit documentation explaining why co-location on another tower is not possible. A copy of that documentation is included with the staff report. Since the disturbed area is under 5,000 square feet, stormwater management and forest conservation do not apply to this project.

All review agencies have reviewed and approved this site plan; staff recommended approval.

Commission/Applicant Discussion: Mr. Wright stated that he had emailed Mr. Rohrbaugh prior to the meeting expressing his concern that that site is very close to the proposed Southern Boulevard; Washington County purchased two lots near the subject lot (Lots 14 and 15) for future road construction several years ago. If Southern Boulevard is not actually constructed through this site, it will be very close. He questioned whether ten years from now the City would be satisfied with this tower along Southern Boulevard. Mr. Rohrbaugh stated that the exact alignment for Southern Boulevard has not been determined and there are no definite plans for it. Mr. Wright stated that it would be a mistake to build a tower at this location and then at some point in the future have to redesign the road to accommodate the tower.

Mr. Brubaker questioned whether this site has been approved for a lease by the Mayor and City Council. If this area becomes a prime industrial park, he wondered how this tower might affect that development. Mr. Campbell weighed in by stating he lives in the south end of Hagerstown near this site and cell service is weak.

Lynn Koerner, representing Shentel, was present. Mr. Koerner confirmed that Shentel does have a lease with the City. The tower was situated on the site based on existing water lines and future road plans. There is also a 100-year floodplain nearby that needed to be taken into consideration when designing the site. As far as redesigning the site, it could be done, however, the location of the proposed road is still an unknown and any new location would be a guess at best. Mr. Wright explained that his concern is to try to avoid problems for the City and the County with regard to Southern Boulevard.

Mr. Rohrbaugh read into the record a portion of the City Engineer's comments from October 5 (meeting file) as follows: "We have no objection to the proposed 20'-foot [sic] wide Access & Utility easement. However, the long range transportation plans for this area include the construction of Southern Boulevard through the City Farm property, close to the proposed lease area. If Southern Blvd. is constructed in the future, the City may request that the lease area be accessed and served with utilities from the new road, and that the easement be abandoned." Mr. Wright confirmed that Mr. Bender provided the same response to him and asked if the tower

could it be moved due north about 150 feet. Mr. Rohrbaugh stated that the developer would also like to keep the disturbed area under 5,000 feet; moving the tower could kick in the requirement for sediment and erosion control plans. Mr. Wright indicated that that was not his concern.

MOTION: (Brubaker/Campbell) I make a motion we approve.

DISCUSSION: None.

ACTION: APPROVED (3-2: Yes – Brubaker, Campbell, Miller; No – Thomas, Wright)

Brethren Mutual Insurance Parking Lot Expansion – South Side Mt. Aetna Road – Stormwater Management Concept Plan.

Staff Report: (Copy of staff report can be found in the meeting file.) The applicant proposes to construct a 43-space parking lot to accommodate parking demand at the Brethren Mutual Insurance Company office, which is located to the east of the subject site. Layout and stormwater management would be designed to accommodate development of an office building to the rear of the planned parking lot in the future, however, there is no projected time frame for constructing that building. Their plan is to coordinate the parking and stormwater management improvements with the future office building which would require a site plan. Parking lot access would be via Mt. Aetna Road, which is a County road along the front of this property.

Staff has identified the following issues to be addressed by the Planning Commission:

- Stormwater Management Approach. (See narrative attached to the staff report for description of the stormwater management approach, and the City Engineer’s memorandum regarding this approach.) There is one 24-inch oak tree in the northeastern corner of the proposed parking lot area which is slated for removal. This tree is the only mature tree in this part of the property. City Engineering staff and Planning staff both agree that the parking lot should be designed to accommodate retention of the 24-inch oak tree, given that this proposal is for an optional item to accommodate development outside of city limits. Also, ESD concepts are specifically in place that allow engineers to design projects in a way that is sensitive to existing environmental features.
- Site Features. The property is approximately 4.0 acres and rectangular in shape. The end of a knoll is in the east-central part of the property and the topography generally slopes from east to west, with an elevation change of about 22 feet from highest (along the center of the eastern side property line) to the lowest (along the center of the western side property line). A 24 inch oak tree is located in the field where the proposed parking area is located (see Item 1 above). Several mature evergreen trees are located along the west side property line, screening the adjacent residences. What appears to be one small sink hole is located in the field just to the east of the proposed parking field.

- Waivers and Design Issues.
 - Forest Conservation. Since the disturbed area will be approximately half of the site, staff will instruct the applicant to address forest conservation for the entire four-acre tract. Staff recommended that a forest planting area be established along the southern (rear) property line to establish a buffer for the future office building. Any remaining effort to meet the requirements of the ordinance could be credited to street trees or the mature evergreens used as a screen along the western side property line could be credited to make up any difference.
 - Sidewalks. The new ordinance requirement for sidewalks along all public streets is now in effect, however, Mt. Aetna Road is a County street. According to the attached correspondence between the design engineer and County staff, Washington County appears to have no objection to the installation of sidewalk in the County right-of-way. However, in this instance, due to existing segments of sidewalk in the area, the County would prefer installation of sidewalks on the north side of Mt. Aetna Road, rather than along the front of this site.

The requirement for sidewalks in the development process is to address impacts generated by this development (either pedestrians leaving the site or drawn to the site). Planning staff did not recommend requiring this developer to construct sidewalks across the street to serve the alternative purpose of regional pedestrian connectivity. Staff believes this would run afoul of legal tests of whether the sidewalk requirement would be related to the proposed development action. The Planning Commission should require sidewalk across the front of this site or not at all. If the commission decides not to require sidewalks at this time, there will be another opportunity in the future when the site plan for the construction of the building is submitted.

- Other. Parking is permitted on an adjacent property under common ownership. The RO (Residential Office) zoning district in which this property is located, allows office uses. The Zoning Administrator has determined that this lot can be used to create parking for the office building on the adjacent property provided that the two parcels remain under common ownership, and the use of the adjacent property does not change to a use that is not permitted in the RO zoning district.

Commission/Applicant Discussion: Stephen Cvijanovich, Fox & Associates, Inc., was present on behalf of Brethren Mutual Insurance. Mr. Cvijanovich requested guidance from the Planning Commission on the sidewalk issue. All the proposed improvements on this site (42-space parking lot and future 10,000 square foot office building with additional parking) are interconnected with a master plan. If sidewalks become an issue, it is better to find out at this stage of the process.

Regarding forest conservation, they have no objection to the required buffer. Mr. Cvijanovich's calculations indicate a 41-foot wide forest conservation area will be necessary. A forest conservation easement would be placed on the existing white pine stand adjacent to the nearby existing residential use. Combined with the proposed buffer, the requirements of the forest conservation ordinance would be satisfied for the entire project. Mr. Cvijanovich stated that he did not see an issue with extending the buffer along the south property line. If the 24-inch diameter tree must be retained it will not be a deal breaker, however, that would require more impervious surface. The goal of environmental site design is to minimize impervious surface and keeping the tree would require additional impervious surface. This tree is not a champion or specimen tree, otherwise it would have been retained.

The existing sidewalk on the north side of Mt. Aetna is on School Board property—it is not in the right-of-way. Mr. Bockmiller pointed out several swale issues on the Brethren Mutual side of the road that would create difficulties with regard to installing sidewalks. Mr. Cvijanovich stated that if the City will require the sidewalk, they would like to install it in the County right-of-way. Washington County does not have a standard for sidewalk placement in open-section roadways. According to Mr. Cvijanovich, another concern is that if the sidewalks are installed in the County right-of-way, a substantial amount of fill will be necessary to support the sidewalk. The parking lot would need to be redesigned to accommodate the additional grading that would be necessary between the edge of the existing paved road surface and the parking lot.

Mr. Thomas noted that a portion of this area collects water when it rains. Mr. Cvijanovich stated this area is a large infiltration trench which was developed many years ago and collects all the runoff from the Brethren Mutual site. Runoff from the new parking lot will be directed to the west. Mr. Cvijanovich said they oversized the bio-retention facility so the 100-year post-development storm would be discharged via a four-inch underdrain in the bottom of the bio-retention area.

Mr. Wright asked if the commission required that space be reserved for a future sidewalk, which would push the parking lot further south, would that save the tree. Mr. Cvijanovich stated that development could potentially smother the roots of the tree. He noted that when the County redesigned Robinwood Drive they put in closed-section roads which included sidewalks. If the County ever decides to improve Mt. Aetna Road with a closed-section road, any sidewalks installed by the developer will be torn out.

The proposed plan would include seven or eight six- to eight-foot tall street trees between the parking lot and Mt. Aetna Road. Mr. Bockmiller clarified that there are separate requirements for street trees and parking lot trees. Parking lot trees can be credited toward the street tree requirements depending on the design. Mr. Wright was in favor of preserving the tree; however, no matter what they do the grade will have to be changed. If the parking lot is pushed further north, the tree will have to be removed regardless. Mr. Cvijanovich reported that Washington

County recommended that the entrance to the new parking lot line up with the outbound driveway at Children's Village, which would cause a major shift in the topography. The difficulty is that Washington County has not been willing to provide guidance on the location of the sidewalk. Mr. Wright agreed with staff's interpretation that the sidewalk needs to go on the south side of Mt. Aetna Road. Mr. Brubaker suggested that the sidewalk could be a requirement of the future office building. Mr. Wright agreed that requiring sidewalks when the office building is built is reasonable, however, that could put the tree in jeopardy. He would lean towards a sidewalk rather than a tree. Mr. Cvijanovich noted that many decisions depend on whether the County will allow the sidewalk to be built in the right-of-way for Mt. Aetna Road.

Mr. Brubaker moved that a provision be made for a sidewalk in the site plan that at such time as the improvements are proposed on this site for future site plan. Mr. Miller asked if we allow for a sidewalk on this side of Mt. Aetna Road, what would be the likelihood of extending sidewalk to the west. Mr. Bockmiller stated that there are grading and swale concerns in that area which would need to be taken into consideration. The motion died for lack of a second.

Mr. Wright indicated that he believed Mr. Brubaker's proposal was the right approach since it would just reserve an area for sidewalk installation in the future and pre-grade for its future installation. Mr. Brubaker stated that his intention was not to require that the sidewalk be built now, only when a site plan is reviewed. Mr. Thomas clarified that the motion made by Mr. Brubaker would require the developer to redesign the parking lot by moving it further back to make provisions for sidewalks in the future. Mr. Wright added that some amount of grading would be necessary to avoid a big problem in the future.

MOTION: (Thomas/Miller) I move that a provision be made for a sidewalk in the site plan that at such time as the improvements are proposed on this site for future site plan.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Mr. Wright asked how the above motion affects the 24-inch pin oak that has been the subject of discussion. Mr. Cvijanovich stated that the tree can be saved until the Planning Commission or Washington County says the sidewalk must be installed. If all the improvements are pushed south 12 feet, there will not be a substantial impact, and it may never come to that.

- MOTION:** (Campbell/Thomas) The 24-inch tree is to remain until we get a future site plan.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Concerning the forest conservation concept plan proposal:

- MOTION:** (Brubaker/Campbell) I'll move the forest conservation plan as proposed.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Mr. Bockmiller observed that this has opened up communication with Washington County on these types of issues. Ms. Maher added that City staff has reached out to the County on the sidewalk matter since Washington County does not require sidewalk installation.

Peterbilt Facility – North Side of Salem Avenue at I-81 – Request for Waiver of Full Site Plan Requirements.

Staff Report: (Copy of staff report can be found in the meeting file.) The owner of this site would like to remove approximately 2.4 acres of woods in order to improve visibility of their facility from Interstate 81. The wooded area would be converted into a lawn, with the stumps and tree remnants removed. Existing use areas are approximately 230 feet from the edge of the paved area of I-81 and approximately 160 feet from the interstate right-of-way. No additional paving is proposed. Given the amount of disturbance, this will require a full site plan and compliance with the forest conservation ordinance. The site plan would be sent to all agencies that review full site plans and the review fees would be for a full site plan.

Since the developer is not proposing to build new facilities, nor will there be any substantial change to the grading of the site, staff suggested they approach the Planning Commission about a waiver to process the site plan using the minor site plan requirements (checklist). Given the nature of the work, the City Engineer will not require an ESD concept plan, although an erosion and sediment control plan will be required for review by the Soil Conservation District and must be part of the site plan. Staff asked the commission to provide guidance to the applicant about whether parking lot landscaping will be required along the eastern edge of the parking/vehicle storage area (adjacent to the woods which are proposed for removal), or whether the commission would be amenable to a waiver.

The edge of the pavement for I-81 and its associated off ramp is approximately 70 feet from the right-of-way/property line. The assumption is that the State Highway Administration (SHA) has no plans to remove the existing trees from the right-of-way. The ordinance requires street trees

along all public street rights-of-way. Retention of the existing wooded area in the SHA right-of-way would offer more buffering than street trees would provide and granting a waiver to requiring street trees along the eastern edge of the property seems appropriate.

Staff recommended approval.

Commission/Applicant Discussion: Lee Royer of R. Lee Royer & Associates, and Jeff Ascott representing Peterbilt, were present. Commission members questioned how leaving 70 feet of trees along I-81 would improve visibility. Mr. Ascott stated that the view on the ground is different than the aerial view that was provided in the commission's packet. On the ground the view is through the tree trunks, not the canopy. Traffic on the highway is clearly visible from the fence line even during peak foliage season. Mr. Bockmiller added that the view after the trees are removed will be a little more wooded than the back of the properties at the "Shoppes at Hagerstown." Mr. Wright and Mr. Brubaker noted that SHA is planning to modify exit and entrance ramps and will be acquiring more land for the improvements.

After the proposed tree removal, 2.22 acres of forest will remain. Mr. Brubaker questioned whether the tree loss will be compensated or made up. Mr. Bockmiller stated that when the site plan is submitted, he will review the forest stand delineation and calculate how much of the forest needs to be retained. The property owner plans to meet the required amount of trees through an easement and commit to saving some trees in order to remove others. Mr. Brubaker wanted confirmation that the tree area to be removed will be lawn and not an additional parking lot.

Mr. Ascott explained how Peterbilt has improved the site since they purchased it. Since this is a Peterbilt dealership and repair facility, the displays will be attractive. Ms. Maher noted that the Department of Natural Resources may require SHA to get rid of the invasive "Chinese trees" that are growing in this area. Mr. Royer stated he has tried that tack, however, there was no interest by the Department of Natural Resources. Due to the nature of the development there is no requirement for an ESD concept plan. The next step is site plan submittal. Mr. Brubaker wanted to be certain this is a stand of ordinary tree growth and that there are no trees worth saving. Mr. Bockmiller said they are not to that point yet.

MOTION: (Campbell/Thomas) I move to grant the waiver request to use the minor site plan checklist.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Planning Commission Business:

**702 West Washington Street – Alex Kreyn, Local Conversion District Overlay,
Case No. ZM-2015-01 – Recommendation to Mayor and City Council.**

Staff Report: (The staff memo is in the meeting file.) The public review meeting was held on Wednesday, October 28. No comments were received during the ten-day comment period. As part of his testimony, Mr. Kreyn provided clarification on the proposed uses for the commercial space (either an organic produce store or a convenience store; if those uses are not viable, he would pursue a restaurant, artist live/work space, or an urgent care clinic). Mr. Kreyn expressed an interest in opening up the storefront windows along West Washington Street with windows on each of the three sides. Staff recommended that this be added as a condition for approval.

In the original analysis of the rezoning, staff recommended adding a condition on signage that no more than 50% of the storefront shall be used for window graphics. At the commission's meeting on September 30, the commission expressed interest in placing a limit on the signage other than what is proposed above. Staff recommended that signage limitations be included as an additional condition of approval.

Commission Discussion: Mr. Thomas requested that the windows be shown on the photograph for the presentation to the Mayor and City Council. Concerning the limitation on the amount of window signage, the commission agreed that 50% is appropriate.

MOTION: (Miller/Thomas) I move that we recommend this to the Mayor and Council.

DISCUSSION: None.

ACTION: APPROVED (Yes – Campbell, Miller, Thomas, Wright; Abstain – Brubaker; Absent – Stone, Wheeler)

2015 Shopping Center Study.

(A copy of the staff memo is in the meeting file.) Mr. Rohrbaugh reviewed the highlights of the report. The bottom line is that overall, the retail shopping centers inside and outside the City are still doing well (see page 6, figure 1). Most of the shopping centers have rebounded since 2008. There was a brief discussion about the economic climate in Washington County.

**Planning Commission
MINUTES - Regular Meeting**

**November 18 , 2015
City of Hagerstown, Maryland**

Adjourn. It was moved and seconded that the meeting adjourn (8:42 p.m.)

Approved

Debra C. Calhoun - Secretary