

**Planning Commission  
MINUTES – Regular Meeting**

**February 8, 2017  
City of Hagerstown, Maryland**

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Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, February 8, 2017, in the Conference Room, Fourth Floor, City Hall. Also present were commission members P. Corderman (late), D. Miller, R. Thomas, and J. Wheeler. The following staff members were present: S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.

**Approval of Minutes:**

January 25, 2017 – Regular Meeting.

Mr. Thomas pointed out a missing word on page 5. The last line should read “. . . even though most of it is *in* the . . .”

Mr. Thomas made a motion to accept the minutes of January 25 as amended or corrected. However, since the only two members present at this meeting who could move and second the approval of the minutes were Mr. Thomas and the chair, Mr. Wright asked that approval of the minutes be moved to the end of the meeting, after Mr. Corderman arrived.

**Kind Therapeutics/Mari Holdings MD LLC – 504 East First Street –  
Waiver Requests for Fencing and Landscaping.**

Staff Report: (Copy of staff report in meeting file) A proposal is moving forward to reuse the vacant Statton Furniture building on the northeast corner of East First Street and Oak Street. The site is improved with a 155,192 square-foot building that is deteriorating and in need of renovations and reuse. The property is 4.0 acres in size and is covered with the building, or asphalt/gravel paving. There is a small amount of landscaping along the two street frontages. This will be a highly secure facility with little to no visitation to the site by non-employees. A site plan has been submitted and is currently being reviewed that would regularize the parking areas and fence the property in accordance with the State of Maryland’s regulations for the licensing of such facilities. The industrial districts permit fencing up to ten feet in height, but the fence proposed is going to be six feet tall.

Richard DiPietro, project manager, stated that the facility will employ approximately 100 people, but because of the three shifts, there will not be more than 60 employees in the building at one time. Mr. Bockmiller stated that most of the parking areas will continue to be gravel, rather than paved. Due to the nature of the product manufactured at this location, armored vehicles will pick the product up. Mr. Wright questioned the wisdom of regular use of heavy, armored vehicles on the gravel surfaces. Mr. DiPietro indicated that he expects two or three trucks a week. The

finished product will be loaded in a contained, interior loading facility. There are some lawn areas along East First and Oak Street.

A fence permit has been submitted for six-foot tall chain link fencing around the property, which the project manager contends is mandated by state law. (Mr. Corderman arrived.) Staff has researched the law on these types of facilities and has not found a requirement for chain link fencing. Mr. Wright noted that chain link is very easy to climb; a vertical fence would be less likely to be scaled. Mr. Bockmiller stated that due to a misunderstanding, fence installation was started without an approved fence permit. Currently, the portions of the fence that have been installed do not match the fence locations shown on the site plan or permit exhibit. The existing driveway entrance along East First Street will be narrowed and closed in with fencing, now shown as chain link.

The applicant is seeking the following design waivers:

1. *Buffer reduction and temporary fencing landscaping waiver.* A fence permit application is currently being reviewed that shows chain link fencing around the entire site in accordance with state regulations associated with their license. The applicants would like to install the fence as soon as possible, before the site plan review is completed. This includes fencing in the following locations:
  - Between the two projecting wings facing East First Street;
  - Along the adjacent railroad right-of-way to the east;
  - Along the rear (northern) property line; and
  - From the northeast corner of the building to the rear property line.

The requested waivers would be to 1) reduce the required buffer in the section along Oak Street to the rear property line from ten feet to eight feet in order to have the fence pick up with rear corner of the building; 2) permit the required buffer plantings to encroach on the street right-of-way on Oak Street to make up the difference; and 3) grant a temporary waiver of installation of the landscaping buffer along Oak and East First Streets until the site plan is approved and the improvements associated with the site plan are constructed.

Staff had no objection to this request, however, it recommended a condition of approval that the fence on East First Street (per Crime Prevention Through Environmental Design [CPTED] recommendations for promoting security and for aesthetics) be vertical decorative metal pickets unless the applicant provides written verification from the state that chain link must be used and that the verification outlines specifically that a vertical metal picket fence is not acceptable to the state. Staff can provide the applicant a letter of the staff's and commission's reasoning to support an inquiry to their regulators.

2. *Use of Minor Site Plan Standards.* The applicant requests permission to use the minor site plan standards instead of the full site plan application and standards since this proposal only involves fencing, removal of existing paved areas and replacement with landscaping, restriping existing asphalt areas, and installation of tire stops to demarcate parking in those areas. No new buildings are proposed, stormwater management will not apply in this case, nor will compliance with the Forest Conservation Ordinance.

Staff recommended approval of this request as being consistent with similar proposals the commission has approved in the past. The plan will be brought to the Planning Commission for final approval.

3. *Alternate Landscaping Plan.* The ordinance permits the applicant to propose an alternate landscaping plan that the applicant believes will meet the intent of the ordinance. The Planning Commission may approve an alternate landscaping plan if it agrees that the intent of the ordinance is met. There are industrial buildings on the property immediately adjacent to the north. Some of these buildings are within three feet of the property line shared with Hagerstown Block. To the east is an abandoned rail line, across which is the underdeveloped rear area of a warehouse facility. In answer to a question by Mr. Miller, staff said at this point “landscaping” will be grass. The following deviations from the standards in the proposed landscaping are observed:

- Reduction in the ten-foot parking lot buffer along the abandoned B&O Railroad right-of-way from ten feet to zero to five feet depending on location; and elimination of landscaping along the property line. In some places, the landscaping will be as wide as 22 feet from the property line due to the installation of end-of-bay landscaping islands.
- Reduction of the six-foot landscaped area adjacent to the southern portion of the east side of the building to five feet. The buffering on the northern portion of this façade will be at least nine feet.
- Elimination of the requirement for six feet of landscaping adjacent to the building in the area proposed for parking between the two front wings facing First Street.
- Elimination of the requirement for six feet of landscaping adjacent to the building, and the requirement for landscaped islands on the ends of parking bays in the rear area that will be marked for handicapped parking.
- Omission of a landscaped island at the end of the parking bay adjacent to the right side of the entrance to the site from Oak Street.
- Reduction of the parking lot landscaping buffer from Oak Street to the parking behind the building from ten feet to eight feet (building is eight feet from right-of-way) and extends planting buffer into the right-of-way.

- Reduction in the number of trees that are required for a 99-space parking lot, perimeter shrubs or plantings along the building.
- Omission of the installation of sidewalks along Oak Street. Oak Street serves only this property and Hagerstown Block; north of this site is a paper right-of-way that dead ends at Rose Hill Cemetery. It is unlikely that Oak Street will ever be connected to another street or serve more than these two businesses, or similar businesses that may succeed them.

Given the intent of this plan, the unique conditions associated with the building's size, configuration and placement, the nature of and future potential for redevelopment of surrounding properties (or limitations thereof), and the likelihood that Oak Street will never be used for more than its current use or something similar, staff recommended approval of this alternate landscaping plan including the waiver of the Oak Street sidewalk requirement, subject to the following conditions:

- A landscaping plan for trees and shrubs be included in the site plan for the site's entire frontage along East First Street and the first 60 feet of Oak Street, including street trees in the street right-of-way of East First Street (unless there are utility conflicts).
- Trees shall be installed to the extent possible within the planned landscape islands in the rear parking areas (to be shown on the site plan).
- The landscape island (described in the fifth bullet point above) is not approved for a waiver and shall be shown on the site plan in accordance with design standards.

Mr. Bockmiller stated that if the commission approves the fence waivers at this meeting, he will be able to sign off on the fence permit on Thursday. Mr. DiPietro stated that the plans he submitted with the fence permit do not include enclosing the northeast corner. There is a deviation in fence locations between the site plan and the fence permit. Mr. Wright wanted to clarify that no parking spaces will be affected because of the fence location on the northeast corner. Mr. DiPietro replied that a few spaces may have to be moved forward.

Commission/Applicant Discussion: Michael Renn, Project Engineer, and Mr. DiPietro, project manager, were present.

Mr. Thomas stated that he would be reluctant to approve anything. He did not believe the six-foot chain link fence would provide sufficient security for the site. Mr. DiPietro stated that when he last met with the state he was told he needed to have a six-foot tall chain link fence. He added that the facility will be required to provide a 24-hour, armed security detail. Mr. Bockmiller clarified that the ordinance allows an industrial property to be completely fenced with certain buffer requirements. However, this would be a situation where the front presentation of the property would include six-foot tall chain link fencing. Unless the state requires otherwise, the

fence along East First Street needs to be decorative metal. Mr. DiPietro argued that this requirement will add \$10,866 to the project. He noted that the landscaping being required will cover the fence. Mr. Wright stated that the commission wants the property to present a reasonable appearance along East First Street—the commission is not requiring vertical fencing around the entire perimeter. He added that the commission has been accommodating with regard to the numerous site design waivers being requested for the project. Mr. DiPietro said they will do whatever the commission tells them to do. He will check into the state’s requirement for a chain link fence. Mr. Wright indicated that if the state requires chain link then the Planning Commission will have to accept it, but it would much rather see a vertical, decent looking fence for passersby on East First Street.

Mr. Bockmiller stated the site plan will carry with it an expectation that the existing piles of debris are cleaned up on the property. The applicant’s engineer needs to revise the site plan to show the new location of the fence. Mr. Bockmiller pointed out that the existing trees on the north side of the property will remain. Mr. Wright asked that the next round of site plans show the cross hatch in the key.

Mr. Bockmiller stated that the site plan is currently scheduled for a Plan Review Committee (PRC) meeting on February 28. He is attempting to schedule a special PRC meeting for Friday, February 10 so the site plan can be formally reviewed at the commission February 22 meeting. This is a priority project for the City and he would like to keep it moving along in the review process. It was noted that the landscaping waivers do not need to be addressed at this time. Mr. Wright wanted the developer to be aware that they will be at risk at having to make modifications to the fence depending upon final approval of the site plan (since they have already started installation).

Concerning the waiver that would allow the project to be reviewed using minor site plan standards:

- MOTION:** (Thomas/Wheeler) I move that we approve the use of the minor site plan for this project.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

Fence Motion:

The fence is shown differently on two separate hand drawings that must be combined; and there is a recommendation from staff for an ornamental fence on the front. Everything else will go in as shown on the two hand-modified drawings.

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- MOTION:** (Thomas/Miller) Approve the waiver for the fencing as shown on two separate hand drawings with the condition that the front fence be ornamental unless the applicant can show that the state requires chain link.
- DISCUSSION:** Mr. Corderman asked if there is no requirement for a fence by the state, then the fence needs to be an ornamental fence. Commission members agreed that the fence along East First Street must be vertical, decorative metal pickets.
- ACTION:** APPROVED (Unanimous)

As far as the landscaping, the commission indicated that it was satisfied with staff's recommendations and expects that it would accept most of the waivers, except as modified by staff. Mr. Bockmiller advised Mr. Renn, the project engineer, that he will need to submit a specific landscaping plan.

**Approval of Minutes – Continued:**

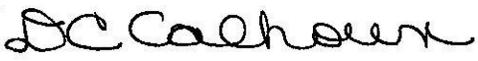
January 25, 2017 – Regular Meeting.

Mr. Wright recapped that Mr. Thomas moved that the minutes be approved with a minor correction on page 5.

- MOTION:** (Thomas/Corderman) I will make a motion to accept the minutes of January 25 as amended or corrected.
- DISCUSSION:** None.
- ACTION:** APPROVED, AS AMENDED (3-0; ABSTAIN – Miller, Wheeler)

**Adjourn.** It was moved and seconded that the meeting adjourn (4:50 p.m.)

2/22/2017  
Approved

  
Debra C. Calhoun - Secretary