

**Planning Commission
MINUTES – Special Meeting**

**July 19, 2017
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 4:05 p.m., on Wednesday, July 19, 2017, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell, P. Corderman, D. Miller, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Director of Planning and Code Administration; and S. Bockmiller, Development Planner/Zoning Administrator.

Approval of Minutes:

June 14, 2017 – Workshop Meeting.

Mr. Thomas noted on page 2, fifth line down, “C & Plaza” should be “C & S Plaza.” Mr. Miller wanted the record to reflect that an architectural rendering for the new front should include railings along the front steps and should be included in the final plan. Mr. Wright noted a typographical error on page 10, second paragraph, second line (“on-ite” should be “on-site”).

MOTION: (Wheeler/Miller) I’ll move approval of the minutes with the corrections as noted.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN – Campbell, Wright)

June 28, 2017 – Regular Meeting.

MOTION: (Miller/Thomas) I make a motion to approve.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN – Campbell, Corderman, Wheeler)

Consultation: Burhans Village – Waiver Requests.

Mr. Wright recused himself from this discussion and asked Mr. Miller to chair this portion of the meeting.

Staff Report: (Copy of staff report in meeting file) Mr. Bockmiller stated that the consultation is for proposed development on the former Deerfield Knolls property which was approved for 88 townhouse condominiums under a Planned Unit Development (PUD). The PUD expired several years ago. The new owner is proposing to develop 48 fee simple townhouse units and a community center on a single cul-de-sac. The project would go through the normal subdivision process (sketch plan, development plan/site plan, and the plats). Given the complexity of the

development, the usual sketch plan format was replaced with a more detailed plan than is normally found with a sketch plan.

At this point in the review phase, staff identified at least three waivers that will be necessary:

- increase in the maximum length of a cul-de-sac (960 feet vs. 600 feet in length);
- requirement that all interior townhouse units back up to either open space or an alley (pertains to units 2 through 6, which will be mitigated with a 10-foot wide access easement across the back of the lots); and
- reduction of the landscaped buffer for the community center parking from 10 feet to zero feet (allows developer to keep several parking spaces for the community center).

Mr. Bockmiller informed the commission that this subdivision will be a “cluster subdivision” which is a plan that would allow smaller-sized lots than the Zoning Ordinance otherwise allows. As long as it is on a 1:1 basis, the developer may add what is lost in lot size to additional open space. Based on its proposed density, this development would require a minimum of 20% open space. The Planning Commission could entertain a subdivision with individual lots smaller than the ordinance requirement as long as the open space is increased. At this point in the design phase, the open space for this project would be approximately 31%.

According to staff, the proposal, including waivers, has the potential to comply with the requirements of the Land Management Code. Once they get further into the design and engineering of the site, additional waivers may be necessary. Mr. Bockmiller noted that there will be no rezoning associated with this project; it is not a PUD. No action will be required from the Mayor and City Council—it will strictly be a subdivision process with the Planning Commission.

Commission/Applicant Discussion: Michael Shifler, Fox & Associates, Inc., stated that based on the input the developer received during the public meeting process for the ill-fated rezoning request last year, they used that information to piece together the comments and concerns expressed regarding development on this property. The Mayor and City Council had concerns with the railroad underpass north of the site on Mitchell Avenue and the possibility of an increase in traffic at the underpass. Based on the hearings the developer chose not to make a connection to Mitchell Avenue.

Mr. Corderman asked what the issues were with the previous proposal. Mr. Bockmiller stated that the concerns that were referred to in the staff memo related to the most recent proposal for a PUD that involved a multi-family component and that the units would be rental units. Mr. Shifler stated that the units in the proposed subdivision would be fee simple ownership but there would be nothing to stop someone from purchasing a unit and then turning it into a rental.

Mr. Bockmiller stated that within the last day, the developer and the City Engineer have been discussing the issue of making a connection to Mitchell Avenue and whether that is an appropriate step. The subdivision ordinance requires an emergency access for 51-100 units; since this project proposes 48 units there is nothing in the ordinance that would require a second access point or an emergency access. Mr. Miller and Mr. Thomas were concerned about the length of the cul-de-sac and access to properties by emergency vehicles. If the entrance is blocked for whatever reason there could be a problem for emergency services. Mr. Shifler said the developer is considering some type of reinforced green driveway for an alternate connection in the area near Mitchell Avenue based on the comments of additional traffic on Mitchell Avenue and the one-way underpass. Mr. Shifler offered the one-way emergency access as a solution to the commission's concerns, subject to approval by the emergency services agencies and the City Engineer.

Mr. Miller asked if a second connection could be made via Mineral Avenue. Mr. Shifler stated that Mineral Avenue is narrow and used heavily for neighborhood parking. Emergency vehicles would have a difficult time using Mineral Avenue as another point of access. They could look further at a second connection via Mineral Avenue, but he believed there would be issues. Mr. Bockmiller added that connecting to Mineral Avenue would bisect the largest section of open space in the development.

Mr. Shifler explained that the developer is considering building a typical 20-foot wide townhouse development with either two or three story units. Concerning access to the site, commission members asked the developer's engineer to explore a second means of access to the property.

MOTION: (Thomas/Campbell) I make a motion then that we approve the requests for waivers for the Community Center and the access for Lots 2-6.

DISCUSSION: None.

ACTION: APPROVED (Abstain - Wright)

Mr. Wright rejoined the discussion.

Consultation: RD Management – Longmeadow Shopping Center – Outdoor Storage and Shopping Areas and Possible Waiver Requests.

Staff Report: (Copy of staff report in meeting file) Mr. Bockmiller stated that the City adopted amendments to the ordinance dealing with outdoor materials/merchandise storage areas with regard to screening them from nearby properties. He circulated photographs of an outdoor storage area for Tractor Supply in Waynesboro, Pennsylvania, that demonstrate why the

ordinance amendments were adopted. RD Management is in discussions with “Family Farm and Home” which is a retailer similar to Tractor Supply to occupy over 30,000 square feet in the middle of the Longmeadow Shopping Center. Family Farm and Home would like three outdoor storage and display areas on the front parking lot and one on the Oak Hill Avenue side of the building. As proposed, numerous waivers will be required from the Land Management Code site design provisions.

Mr. Bockmiller reviewed the proposed improvements and waiver requests. Staff worked with the developer and engineer to come up with a plan that will mostly meet the requirements of the ordinance.

- Outdoor delivery and storage area to the rear of the building (adjacent to Oak Hill Avenue). Two banks of parking will be removed to create this storage area; this area will not be accessible to customers and will be surrounded with an eight-foot tall wooden stockade fence. The enclosure will be open on one side to accept tractor-trailer deliveries. The area will be screened from Oak Hill Avenue. Staff was satisfied that this is the best solution for the back of the building. Through traffic behind the shopping center will not be impeded.
- A 5,184-square foot “stockade” with 20-foot gate located directly behind the freestanding bank building. A display and merchandise storage area is proposed for behind the bank on Potomac Avenue. The initial proposal was for a combination of black vinyl-coated chain link fence and post-and-rail fence. Staff and the developer worked together to find different fence materials. As a result the developer is proposing an eight-foot tall black, ornamental metal, vertical picket enclosure, which is preferred by the Hagerstown Police Department with regard to CPTED design. Eight parking spaces would be removed and a post-and-rail fence will be added creating a drive aisle for merchandise pick up. This design will necessitate several waivers: removal of parking spaces will create an area with no landscaped island; and the fence will be located immediately adjacent to a drive aisle, which requires a ten-foot landscaping island. Mr. Bockmiller pointed out that the developer is proposing temporary curbing to close in a drive aisle. The idea is that the temporary curbing could be removed if Family Farm and Home moves out of this space. Staff’s main concern is visibility and not having the parking lot looking like a large storage bin. Staff requested and the developer agreed to install a “heavy” row of shrubs along an island and between existing trees. Developer is proposing a fast-growing boxwood variety for the screen. Even with removal of parking spaces the shopping center still has an excess of almost 50 spaces.
- Sidewalk display in front of the storefront. Staff indicated that it had no objection to the display of merchandise under the existing covered walkway provided that sufficient room is provided for handicap access and pedestrians using the walkway, and that

pedestrians crossing the drive aisle in front of the shopping center are not prevented from stepping under the covered walkway by long runs of merchandise displays.

- Conversion of a bay of parking to an outdoor merchandise display area using four-foot tall post-and-rail fencing. Staff stated that post-and-rail fencing is not an effective screen, however, the landscape island in place is sufficiently wide to install intensive plantings that will serve the purpose of screening merchandise stored inside the fenced area. Display areas will be open on the south side resulting in customers walking in the drive aisle going from bin to bin, creating a pedestrian safety concern. Staff recommended that the bay on the opposite side of the aisle be closed with screening and the eastern end of the driveway be enclosed to discourage through traffic. Since the materials to be contained in this enclosure are likely to require a pick-up point nearby, staff recommended that this area be designed with a vehicle turnaround to keep vehicles at a slow speed and force all vehicular traffic to enter and exit via the driveway directly in front of the shopping center.

Mr. Wright summarized the waivers as elimination of parking aisles in a few locations; fencing with zero foot setback; and width of landscaping bed in several locations.

Commission/Engineer Discussion: Stephen Cvijanovich of Fox & Associates, Inc., went over several areas previously explained by staff. The area adjacent to Oak Hill Avenue will be a staging area and will not be open to the public. The stockade area and outdoor sales area in front of the shopping center will be accessible to the public. There will be a “corridor” inside the building that will be used by a forklift to move merchandise from the staging area in the back to either the showroom floor or the outdoor sales areas. Mr. Thomas noted potential conflicts between the forklift and shopping center vehicular and pedestrian traffic and suggested that product be moved during non-operating hours. Mr. Cvijanovich stated he had not discussed that option with his client, but felt language could be placed on the site plan limiting when forklifts would be permitted to operate in the parking lot.

Mr. Wright asked if the developer could paint the wood fence behind the shopping center a brick color so it blends in better with the building. Mr. Cvijanovich stated he was not sure whether the fence company had a brown stain product in lieu of painting the fence post construction, but will check with them on whether it could be pre-stained or pre-painted. Mr. Bockmiller wanted the proposed tenant to be aware that storage of outdoor materials will be contained to the storage areas shown on the plan. Mr. Cvijanovich offered to add a note to the plan that the areas shown on the plan are the extent to which outdoor storage and merchandising can occur. In answer to a question by Mr. Miller, Mr. Cvijanovich stated that the outdoor storage areas will not be secured.

Staff asked if the commission was ready to approve the waivers at this meeting and have the site plan processed as an amendment to the existing site plan for the parking or would the

commission want it to come back as formal site plan. Mr. Cvijanovich stated that the only changes that would be made would be the addition of notes concerning the limits of outdoor display and that the wooden fence behind the building would be painted to blend in with the brick. Commission members were agreeable to allowing these changes as an amendment to the parking lot site plan. Mr. Miller asked if the existing tenants at the shopping center have been made aware of the proposed changes to the parking lot layout. Mr. Cvijanovich indicated that Fox & Associates did not provide plans to existing tenants and could not confirm or deny whether the owner of the shopping center has informed its tenants of the changes. Commission members agreed that the forklift should only be in operation after hours. Mr. Cvijanovich suggested that language be added to the building permit for the alterations to the space that will be necessary.

Commission member discussed the proposed waivers:

- Elimination of two parking aisle inbound lanes resulting in parking rows ending without parking aisles in two locations. This would be all within the storage area. Commission members had no objection to this waiver request.
- In Area C, a zero setback for the ornamental vertical fence on the south end of the stockade area. Commission members had no concerns about this waiver request.
- The width of vegetation that is provided along the same area (Potomac Avenue side) and in the area of the Fence Type D that runs back towards and along the alley coming away from Potomac Avenue, which would be a reduction from ten feet to three feet. Shrubs and trees will be planted in this area. Commission members had no concerns about this waiver request.

MOTION: (Campbell/Thomas) I make a motion to approve the three waiver requests listed above.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Quitclaim Request: Union Rescue Mission – Between 115 and 125 North Prospect Street.

Fred Frederick of Frederick, Seibert & Associates, and Sonny Shank of the Union Rescue Mission were present.

Staff Report: (Copy of staff report in meeting file) This request is for a quitclaim of a City alley between 115 and 125 North Prospect Street to the adjacent property owner to facilitate a minor expansion to their existing facility. The existing building is built almost to the property lines. The

Mayor and Council reviewed this quitclaim request at their meeting on July 18. One issue to consider is that the alley dead-ends at an adjacent property which could create access issues for the adjacent property.

Commission/Applicant Discussion: Mr. Wright asked what the proposed improvements will be. Mr. Frederick stated the Union Rescue Mission is planning to expand their kitchen. Concerning the property that would lose access, Mr. Frederick informed the commission that when they do the subdivision plat to vacate the property lines, an easement will be provided for the adjacent property so they can access the rear of their property. Mr. Wright was concerned about another property that is part of the Union Rescue Mission holdings to the west that would lose access to the rear of their property if the property was sold. Mr. Bockmiller stated that the owner of the property of the old railroad depot would also lose an alley right-of-way that dead ends at their property. Mr. Wright suggested cross easements or combining it into all one large parcel. Mr. Frederick stated that is a possibility; however, the Union Rescue Mission’s Board has not discussed that option.

No additional questions by the commission.

- MOTION:** (Miller/Campbell) I’ll make a motion to recommend this to the Mayor and Council.
- DISCUSSION:** Mr. Wright asked that the motion be amended to require either cross easements or consolidation of the properties. Mr. Miller and Ms. Campbell agreed to the amendment.
- ACTION:** APPROVED (Unanimous)

ESD Stormwater Management Concept Plan – N. Burhans Corner – Southwest Corner of West Franklin Street and North Burhans Boulevard.

Staff Report: (Copy of staff report in meeting file) The applicant is proposing to demolish the existing foursquare house currently occupied by a bail bonds office and construct a new Dunkin Donuts restaurant with drive-through, and regularize and improve on-site parking that the doughnut shop will share with the new Mexican restaurant that now occupies the former “Always Ron’s” building. Access to the site will be from a new two-way entrance mid-block on Burhans Boulevard that will utilize the existing alley entrance and a right-in and right-out only entrance and exit on West Franklin Street. Access to and from Franklin Street is subject to review and approval by the State Highway Administration (SHA).

Stormwater Management Approach: A memo was provided by the City Engineer addressing the applicant's stormwater management approach for the project.

Site Features: The property is approximately 240 feet wide along North Burhans Boulevard, by approximately 200 feet along West Franklin Street. The 50 westernmost feet are zoned R-MED. However the area that is 0-25 feet from the adjacent property to the west will only be used for landscaping. No commercial activity will be located in that area and it will be used as a buffer between the commercial activity and the adjacent residential development. The portion of the property that is 26-50 feet from the adjacent property to the west is currently developed for part of the "Always Ron's" building and parking. The development that occurs here will be a reconstruction of existing parking and driveways and the formalization of a dumpster pad. Staff did not believe any of this would be considered an expansion or intensification of the nonconforming use and will not require action by the Board of Zoning Appeals. A small gravel nonconforming parking area located across the alley will be converted to three parking spaces. The new doughnut shop and improvement of the existing parking is being considered as a redevelopment of existing paved area and commercial uses. Forest Conservation Ordinance compliance will not be required.

Waivers: Four potential waivers are necessary: 1) the designation of a loading area that would eliminate one of the required parking lot landscaping islands; 2) the landscape buffer between the existing building and Burhans Boulevard would be slightly less than the required 10-foot minimum width; 3) the drive aisle adjacent to the buffer will be 22 feet wide instead of the required 24 feet; and 4) the formalization of the small lot on the south side of the alley for three parking spaces will require waivers to the ten-foot landscaping requirement on all four sides. Mr. Bockmiller pointed out that the parking spaces provided for both uses are at the minimum necessary so the developer cannot use excess parking to increase landscaping areas.

Given that the western buffer will be 15 feet more than the ten feet that the ordinance requires, the tight nature of the site, the need to plan around the retention of the "Always Ron's" building, and the proposed design provides no more parking than the minimum required by the ordinance, staff had no objection to waivers for these issues. Some landscaping areas around the building will be less than six feet wide, but will be wider than six feet in other areas.

Staff recommended approval, with a note that it is reserving the right to provide additional comments at the site plan stage.

Commission/Applicant Discussion: Since the alley entrance will be widened to accommodate vehicles entering and exiting this site, Mr. Wright questioned whether there was a mechanism in place to allow that. Rodney Tissue, City Engineer, stated that this may be the first instance where a public alley was turned into a commercial driveway entrance. Mr. Frederick stated the alley would still be open to the public, which is one way beyond the subject site. By widening the

alley opening it will provide better turning movement for anyone using the alley. The project will necessitate closing some of the access points to the site. There will be another access point on the West Franklin Street side of the property. Mr. Wright suggested additional signage to prevent motorists from trying to proceed west on the alley once it becomes one way going east.

Mr. Wright had concerns about the four trees on West Franklin Street, in particular the one on the east end. The easternmost tree is close to the proposed exit/entrance for the Dunkin Donuts facility. Site distance will be compromised. He suggested eliminating two of the trees (the easternmost and the one east of the exit). Mr. Frederick stated they had no problems with eliminating some of the trees and possibly replacing them with lower-growing varieties). Mr. Bockmiller stated that if required street trees are eliminated, it would require a waiver. Concerning the drive-through lane, Mr. Wright asked if there is an “escape” in case someone gets into the drive-through lane by mistake. Due to the size of the site, Mr. Frederick stated there is no “escape.”

Mr. Frederick and Mr. Bockmiller noted that the existing retaining wall at the corner of North Burhans and West Franklin Street will be retained. Mr. Corderman had concerns about the alley on North Burhans Boulevard and possible conflicts between vehicles traveling east and meeting up with vehicles turning west into the alley from Burhans. Mr. Frederick stated that the entrance will be a “pork chop” which will make it difficult to go west on the alley. Also, there will be arrows directing vehicles pulling off of Burhans to keep right into the Dunkin Donuts site. Concerning the waiver requests listed above, commission members advised that it had no concerns with the waivers requested by the developer.

MOTION: (Miller/Thomas) So moved (to approve the ESD sketch plan).
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Cortpark – Redesign of New Entrance Road – Revision to Approved Site Plan, Case No. ZS-2016-03.

Mr. Wright and Mr. Miller did not participate in the discussion of this matter. Ms. Wheeler assumed the chair.

Adam Hager and Keith Moore of Frederick, Seibert & Associates were present.

Staff Report: (Copy of staff report in meeting file) The commission previously approved the site plan for renovations to the Cortpark development. Since the approval, the developer and their engineer have been working toward satisfying the conditions of approval, including obtaining

permits from the Maryland Department of the Environment (MDE) for construction in the floodplain.

The second entrance road is required by the City for the addition of units and was originally approved as a “crest curve” with a series of pipes under the roadway that would equalize floodwaters in the portion of the floodplain that the road will cross. MDE found that this design would increase flooding on the adjacent Lowe’s property by 0.13 feet (approximately 1.5 inches). MDE’s regulations required sign-off by Lowe’s, which Lowe’s declined to provide. Staff noted that all of Lowe’s improvements sit atop a 30-foot retaining wall and would not have been affected by this change. As a result the applicant redesigned the road to eliminate this impact on the Lowe’s property.

The new design is a “sag curve” that more closely hugs the existing contour of the ground. Pipes and culverts under the road would be reduced, and the road bed elevation of the driveway at what would have been its highest elevation would be lowered by approximately four feet. The staff report includes a comparative cross section. This change will place the roadbed in the floodplain and would be designed for floodwaters to pass across it. Staff believed this is too significant of a change to the approved site plan for staff to approve administratively and needed to be brought to the commission for consideration. Staff flagged the following points for the commission to discuss:

- Eastern Boulevard is in the floodplain at this point. Designing the entrance drive to be out of the floodplain required a construction expectation in excess of the collector city street that one has to travel to arrive at this driveway.
- The Floodplain Management Ordinance does not require private driveways to be out of the floodplain. The ordinance does require streets to be constructed as part of subdivisions to be out of the floodplain; however the verbiage does not apply to private driveways.
- MDE finds this design acceptable and is prepared to issue a permit.
- The recent fire in Cortpark illustrates the need for a second access point to this development, even without the proposed renovations it is in the public interest.
- Staff continues to recommend against moving the driveway into the existing forest conservation area and creating an S-curve design which will damage the existing forest conservation area’s ability to serve as a buffer for this development from Eastern Boulevard.

Staff had no objection this proposal, and the new design is aesthetically better as it conforms to existing topography and will not appear as a road across a berm.

Applicant/Commission Discussion: Adam Hager of Frederick, Seibert & Associates stated that they did everything they could to make the first road configuration work; however, without

Lowe's approval it failed. There are several hydraulic models that could be used and MDE required calculations based on the most conservative model. Mr. Bockmiller noted that if the driveway floods, Eastern Boulevard would most likely be under water as well. Keith Moore of Frederick, Seibert & Associates noted that something less than a ten-year storm could flood the roads. Mr. Tissue noted for the record that the amount of water over the proposed driveway is over two feet deep in a ten-year storm. Mr. Moore said the 100-year storm is only a few inches above that, and it would be prudent to post signs warning of the potential for flooding in this area, including the depths.

Concerning ordinance requirements, Mr. Bockmiller stated the proposal technically complies with the ordinance. When dealing with the Flood Management Ordinance and the Forest Conservation Ordinance both are subject to higher laws of the state. City staff is responsible to MDE when administering the floodplain ordinance. That agency is prepared to issue a permit for this project. As mentioned in the report, staff is not in favor of redesigning the road and moving it into the forest conservation area. Mr. Tissue added that MDE looks at the construction as proposed in the waterway and they want to see what the impact is on the elevation of the flood. When they say they are okay with the design, they are saying that the flood waters will not get any deeper. The City Engineer's concern is that this road will be used by the public (even though it is private) and will have overtopping in a two-year storm and significant overtopping in a ten-year storm. His office wants to make certain there are mechanisms in place to keep the public safe. Ms. Wheeler asked for clarification on what Mr. Tissue means by "closing it off." He clarified that a flood control warning system should be installed, including gates. Mr. Corderman felt this problem is due to the expansion of the number of units in the development. If the expansion was not approved, there would be no requirement for upgrading the emergency access road to a second access. Mr. Bockmiller stated that if plans fall through for the second access point and the additional units are not permitted, there would still be inadequate access to the development that does not meet the current ordinance requirements. He added that the way the approvals were written, the road must be constructed before any use and occupancy permits are granted.

Ms. Wheeler asked about the flood control warning system. She believed it needed to be located at a point prior to a motorist turning into the access road. She asked the engineers how they saw a warning system working. Mr. Moore stated they were only discussing warning signs, not systems. Staff recommended that rather than approving this now with generalized guidance for a system, he suggested that the developer propose a plan showing the changes. The commission could review it at its next meeting. Mr. Tissue indicated that the minimum necessary would be flashing lights, but gates could be considered as well.

The commission will consider this at the August 9 meeting.

Mr. Wright and Mr. Miller rejoined the discussion.

Text Amendments: Motions with Recommendations to Mayor and City Council:

No additional comments were received for either text amendment during the ten-day comment period.

Car Repair in I-MU (Industrial-Mixed Use) Zoning District, Case No. ZT-2017-01.

MOTION: (Miller/Thomas) I make a motion to recommend approval to the Mayor and Council.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Corderman)

Process to Abandon Existing Subdivision Lines for Simplified Plats Recorded to Divide Nonconforming and/or Noncomplying Townhouse Developments, Case No. ZT-2017-02.

MOTION: (Campbell/Wheeler) I move for approval (to make that recommendation to the Mayor and Council).
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Corderman)

Board of Zoning Appeals – July Hearing.

The commission had no comments to pass on to the Board of Zoning Appeals.

Announcements.

None.

Adjourn. It was moved and seconded that the meeting adjourn (6:12 p.m.)

9/13/2017

Approved



Debra C. Calhoun - Secretary