

James W. Stone, vice chair, called the meeting to order at 4:00 p.m., on Wednesday, June 14, 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: K. Maher, Director of Planning and Code Administration; A. Rohrbaugh, Planner; and D. Calhoun, Secretary. (NOTE: Planning Commission revisions are indicated in red text.)

Mr. Stone noted that commission members Wheeler, Miller, and Thomas were present.

### **Approval of Minutes:**

May 31, 2017 – Regular Meeting.

**MOTION:** (Wheeler/Thomas) I will move approval of the minutes.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (ABSTAIN - Miller)

### **C & S Plaza Expanded Parking – Salem Avenue – Waivers.**

Staff Report: (Copy of staff report in meeting file) For the purposes of facilitating the expansion of a restaurant in the C&S Plaza (Café del Sol), the City obtained surplus right-of-way from the State of Maryland along Salem Avenue with the intent of transferring it to the property owner to expand parking. This area has been casually used for overflow parking for several years. The City plans to transfer it to the owner of C & S Plaza who will then formally develop the area for a parking lot. The City will retain the street right-of-way that provides access to the three properties behind C & S Plaza.

The applicant is requesting four waivers (read into the record):

- Given the very small and restricted nature of the property to be transferred, the applicant seeks approval of an alternate landscaping plan for the 13-space parking lot that would consist only of landscaped islands on each end of the parking bay. No landscaping would be provided between the parking and the Salem Avenue/Cearfoss Pike right-of-way since the length of the parking spaces encompasses the entire width of the property. Staff recommended approval.
- The applicant seeks a waiver to the requirement for the length of a perpendicular parking space from 18 feet to 16 feet because the lot itself is only 16 feet wide at its narrowest point. Staff recommended approval.

- Article 5, Section I.4.h states that parking spaces shall not be permitted to back directly into a public street. The applicant seeks a waiver to this requirement. While staff is generally cautious about waivers to this requirement, the City has been working with the applicant for two years to accomplish improved parking for their facility; the public street in this case functions more like a private driveway for C & S Plaza and three residential properties located to the west. Historically this area has been informally used for overflow parking. Given these unique circumstances, staff recommended approval.
- The applicant has also requested that formal action be taken at this meeting rather than waiting for formal submission. This way, the minor site plan can be processed and signed by staff in the normal minor site plan process without having to bring this plan back to the commission later for formal action on the waivers. This would be conditioned on the assumption that the plan will not deviate from the plan shown here. Staff recommended approval.

Commission/Applicant Discussion: The site plan involves under 5,000 square feet of disturbance. (Mr. Corderman arrived.) As long as the minor site plan is submitted with no deviations from what is represented on the drawings before the commission, Mr. Bockmiller stated that staff would sign off on it. Mr. Thomas noted that the private road note should be “City Road.” In response to a question, Adam Hager, Frederick, Seibert & Associates, engineers for the project, indicated that the east end of the area to be transferred would not be used for parking—it will become a grassed area. Staff noted that the area is not conducive for parking. Mr. Stone asked if vehicles will be prevented from backing onto Salem Avenue. Mr. Hager pointed out that there is a chain link fence that prevents that.

**MOTION:** (Thomas/Wheeler) I’ll move that we approve the three waivers for the site plan as submitted, with the correction of “Private Road” being changed to “Public Road.”

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

### **Hamilton Nissan – 1923 Dual Highway – ESD Sketch Plan.**

Staff Report: (Copy of staff report in meeting file) This sketch plan is for the unimproved wooded tract located on the northwest side of Hamilton Nissan. The plan calls for a car sales and repair facility consisting of a 3,000-square-foot sales office building near the front of the site, a 15,000-square-foot repair building toward the rear of the site, and approximately 670 parking/vehicle storage spaces. No additional driveway entrances will be created along Dual Highway. Access would be via the existing driveway entrance to the adjacent Hamilton Nissan facility.

The City Engineer provided a separate report concerning the storm water management plan for the project.

The site is designed to maintain a wooded 120-foot-wide area along the rear property line and a 45- to 60-foot-wide woodland retention area along the northwest side property line. The ordinance requires that a forest conservation area be at least 35 feet wide and this proposal exceeds the minimum requirements by 10 to 25 feet. There are 5.95 acres of forest on the property and 1.7 acres of the existing forest would be preserved in these two buffer areas, resulting in a net loss of 4.25 acres of forest.

From what is shown on the drawing, no landscaping or parking lot islands are shown around the repair building. Staff observed that at least one island appears to be below the minimum width requirement. If this is to be part of a final site plan submission, potential waivers to the following requirements may be necessary:

- 6-foot landscaping beds around buildings;
- parking bays must include landscaped islands at their ends; and
- 8-foot landscaped island minimum width

Given that this is a 5.95-acre, raw-land build, staff recommended that all design requirements of the Ordinance be adhered to in final design.

With regard to environmental features, staff pointed out that there is one specimen tree on the site (a 34-inch hickory tree approximately 170 feet from Dual Highway). This tree is located in an area where grading is proposed, as well as an underground stormwater management facility. It appears the developer will request its removal as part of their forest conservation plan when it is submitted. Since hickory trees are not prevalent in the area, staff suggested if removal of the tree is approved that nuts be harvested before its removal and used to help repopulate the forest conservation planting areas on the site. Staff investigated whether the hickory could be retained, but it does not appear to be practical.

Commission/Applicant Discussion: The City Engineer's office has concerns about the proposed stormwater management design. Jim Bender, Assistant City Engineer, stated that their office is mainly concerned about the amount of impervious area being proposed. The priority is to minimize the amount of impervious area which will create less runoff. In looking at the existing Hamilton site, Mr. Bender observed that the proposal almost doubles the number of existing parking spaces and questioned whether there is a need for that amount of parking/storage that would better meet the requirements of the ordinance or if they were anticipating future parking needs.

Mark Felton, Triad Engineering, Inc., engineer for the project, indicated that the owner, Rick Hamilton, could not attend this meeting. On behalf of the owner, Mr. Felton stated that regarding the size of the used car lot, the owners have studied the market and believe there is a substantial market for used cars. Approximately two-thirds of the site will be dedicated to used car sales; the southerly part of the property will contain the body shop. The plan is to move the body shop into its own building to free up space in the main building. The projected number of parking spaces is what will meet the developer's marketing demands.

Mr. Thomas questioned whether there will be any requirements that spaces be held in abeyance so that the lot can be swept. Mr. Bender said the developer is proposing a large amount of permeable pavement. The problem with the permeable pavement is maintenance. The areas need to be vacuum swept a few times a year. It is not as much of a problem in situations where cars are not on the lot such as in the evenings. However, in the case of car sales lots, Engineering staff needs to know how the vehicles will be stored to vacuum sweep the lot. Engineering will require a maintenance schedule which must specify how many times a year the area will be swept and documentation that the dealership will maintain the sweeping schedule. Hamilton Nissan's immediate response is that this would be similar to snow removal in the winter. Mr. Felton said when Hamilton Nissan plows snow, they pull the vehicles forward and scrape the snow away and vacuuming will occur in the same manner. He added that this should not be an issue since Hamilton Nissan can control traffic on the lot. Planning Commission members were satisfied that this system would work. Mr. Bockmiller stated that the sweeping schedule will be included on the site plan as well.

Mr. Felton stated that the developer and engineer have discussed the City Engineer's comments. The drawing shows two phases for the project. The used car lot will be developed first; the second phase will be for the body shop. Most likely the site plan will be for two phases for financing purposes. The most important phase is the used car sales phase. Two hundred four parking spaces are necessary for the body shop since Hamilton Nissan employees may be using this parking. Mr. Felton did not know how many employees would be working in the body shop.

Concerning the City Engineer's comments on the site plan, Mr. Felton stated that they are aware that the State Highway Administration needs to review the site plan. The parking areas will be lit with low-energy, downward-directed lighting as required by the ordinance and a lighting plan will be part of the site plan. Some of the parking lot islands are not curbed—curbing can be added to some of them. Mr. Bockmiller noted that the expectation is that all of the islands will have curbs. Fencing will not be provided around the parking area. Hamilton Nissan has not had security issues to date, so no fence is planned. Staff recommended that a fence be shown on the plan with a note that it is an optional install; should Hamilton Nissan decide in the future that a fence is needed it will already be on the site plan.

Concerning the Forest Stand Delineation, at this level of review it does not indicate how the developer proposes to comply. The Planning Commission has historically been amenable to removal of trees on commercial properties as long as there is a fee-in-lieu contribution or plantings on site. Mr. Felton indicated that the developer is planning on a fee-in-lieu payment.

Mr. Stone pointed out on the first page of the staff report there are three waivers listed. He asked Mr. Felton if the developer would be amenable to proceeding with the development without waivers. Mr. Felton indicated that they should be able to adjust the plan to meet all ordinance requirements.

Concerning signage, the existing smaller signage will be replaced with an appropriate sign for a used car lot. The new sign will be shown on the site plan—one sign for the dealership and one sign for the used car business.

There is an additional house that needs to be removed in the northwest corner of the property.

**MOTION:** (Miller/Thomas) I make a motion to approve the sketch plan with all the conditions addressed in the memos.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

### **Lidl US Operations, LLC – 728 Tracy’s Lane – ESD Sketch Plan.**

Emily Pate and Brandon Rowe of Bohler Engineering; and Cameron Setian on behalf of Lidle US Operations, were present.

Staff Report: (Copy of staff report in meeting file) This sketch plan is for the unimproved 7.17-acre tract located between Dual Highway and Tracy’s Lane. The plan calls for a single-unit retail building measuring 130 feet by 300 feet. A total of 199 parking spaces will be provided. Primary access will be via one two-way driveway access on Dual Highway with a westbound left turn lane in the median that will permit access to the site for traffic coming from the east. No left turn will be permitted out of the facility. A secondary access on Tracy’s Lane will also be provided.

The City Engineer provided a separate report concerning the stormwater management plan for the project. A stormwater management facility will be located between the building and Hamilton Run.

Based on the drawing, this development appears to have the potential to comply with all development standards except one—the requirement for six feet of landscaping around the base of

a building. There is no landscaping shown on the Dual Highway and Tracy's Lane frontages or on the western front of the building. There is no paving to the east of the building—lawn and vegetation would begin at this side of the building, descend to the stormwater management area and continue to Hamilton Run. If this plan remains unaltered, a waiver will be necessary for the six feet of landscaping on three sides of the building.

Regarding environmental features, Hamilton Run is located along the eastern edge of the property and there is some significant topography associated with the stream channel as well as a 100-year floodplain. The Ordinance requires a 50-foot buffer for the stream. This area is also wooded and would be a priority retention area for compliance with the Forest Conservation Ordinance. There are nine specimen trees on site. Of these, five are described as being in poor condition, with two being in fairly good condition and two in good condition. Of the nine trees, five are scattered throughout the planned parking field and driveway area. Therefore, the Forest Conservation Plan will need to include a request to remove several specimen trees.

The site will need significant grading and a plat will be necessary. Retaining trees will be impossible due to grade issues. There is a specimen tree along the Dual Highway which will need to be removed to widen the entrance. The priority area is the flood plain. The applicant does not have to submit a forest conservation plan at this stage, so staff has no idea on how they plan to comply.

Jim Bender, Assistant City Engineer, stated that the concept plan for stormwater management appears to comply with the requirements of the ordinance. This site is different from the previous case (Hamilton Nissan) because the parking area is being driven by the use. Concerning the one possible waiver request, Mr. Bockmiller noted that the plan calls for a substantial amount of grass on the east side of the building. Staff suggested small planting beds to break up the absence of green on the long side. Mr. Miller observed that the entire site appears to be a grading challenge. Mr. Setian of Lidl US Operations stated that Lidl has unique architecture for its stores—woody in nature; however, the architecture has not been identified for this site.

Commission/Applicant Discussion: Commission members were unfamiliar with Lidl and asked Mr. Setian for background on the company. Mr. Setian stated that Lidl is a privately owned grocery chain and is the largest grocer in Europe. The United States is the most recent expansion and stores are planned on the east coast from New York to Georgia. The first nine stores will open June 15. Lidl is a unique niche market with premium private label and some brand name items. Stores are 36,000 square feet. Hagerstown was chosen because it meets all of the chain's requirements for demographics, high-traffic corridors, and the proximity of other grocery stores. Typically they require four-acre sites. The chain is a German-based company, but the products will be for the American consumer. Lidl tries to locally source as much as possible (fresh produce, fresh meats) at affordable prices. They have many sites under contract in Maryland with the majority in Prince George's County, Anne Arundel County, and two sites in Frederick.

Mr. Thomas questioned whether the turning radius for the loading dock is sufficient for tractor trailers. Mr. Rowe stated that there will be enough space for two trucks to unload. He added that all truck traffic will be via Dual Highway—no trucks will be accessing the site via Tracy’s Lane. Mr. Stone asked if there will be retaining walls. Mr. Rowe stated there will be retaining walls to minimize the impact on the stream buffer and where the grade drops off. Mr. Bockmiller noted that no sidewalk is shown along Tracy’s Lane and has informed the engineer that sidewalks will be required along Tracy’s Lane. Mr. Rowe told the commission that they are not proposing a sidewalk due to a culvert that runs under Tracy’s Lane. They do not believe it would be a safe situation for pedestrians to continue a sidewalk along Tracy’s Lane. A connection will be provided through the site from Tracy’s Lane that will connect to the Dual Highway. There is also no room for a sidewalk in the right-of-way at the House of Kobe.

Mr. Bender recalled that approximately ten years ago the culvert was replaced when Tracy’s Lane was widened. At that time it was difficult to find enough right-of-way to get the road in and the utilities. The sidewalk on the south side of Tracy’s Lane at the East Ridge development was determined to be the best location for a sidewalk. The City Engineer’s office agreed with Lidl’s points about not providing a sidewalk on the Lidl side of Tracy’s Lane. Mr. Stone noted that Mr. Wright was absent from this meeting so the commission could not hear his thoughts on the sidewalk matter, although Mr. Stone believed it would be difficult to install a sidewalk on the north side of Tracy’s Lane. He asked if the design could include a crossing area that is marked so drivers are alerted to the possibility of pedestrians crossing the road. Mr. Rowe stated that they are proposing a painted crosswalk.

Mr. Rowe informed the commission that the State Highway Administration approved the traffic study for this project in January 2017. As part of that approval Lidl will be required to construct a 200-foot acceleration/deceleration lane. Concerning the path of delivery trucks, access to the site would be solely from the Dual Highway. Mr. Bender stated that the culvert would be able to handle the weight of the trucks; however, it is a tight bend. A lighting plan will be included on the site plan. Forest Conservation requirements will be met by providing 0.77 acres of on-site credit and one acre of fee-in-lieu payment.

Mr. Bockmiller asked for feedback from the commission concerning the six feet of landscaping around the building. Mr. Thomas had concerns that the side of the building that faces the Dual Highway may not be wide enough for landscaping and handicapped accessibility. He did not believe there is enough room for both.

**MOTION:** (Thomas/Miller) I’ll make a motion to accept the sketch plan as presented.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**Maryland Theatre – 21 South Potomac Street – ESD Sketch Plan.**

Staff Report: (Copy of staff report in meeting file) Staff received a sketch plan for stormwater management for the new front for the Maryland Theatre. The proposed improvements will have a footprint of 8,160 square feet. The City Engineer provided a separate report concerning the stormwater management plan for the project.

Staff identified no items that would require waivers from the provisions of the Subdivision and Land Development Ordinance. There is a pending variance application with the Board of Zoning Appeals to approve construction of the building 9.8 feet behind the “street wall.” Staff explained that the CC-MU zoning district has “build-to” lines, which is the opposite of a setback line. The purpose of the variance is to permit a gathering area and stairs in front of the entrance doors. The commission may want to consider sending a recommendation to the Board of Zoning Appeals on that matter. This development is not subject to the Forest Conservation Ordinance.

Staff identified the following unique conditions:

- The construction will connect with the historic Maryland Theater and will be constructed without setback adjacent to the historic First Hose Company building.
- The property is located in a historic district, the work, including the site plan, is subject to review and approval by the Historic District Commission. The Theatre has already completed the first phase of a two-step process to secure approval of the demolition of the existing “McBare Building” which is the current location of the ticket office. Exterior design of the facility will require a Certificate of Appropriateness from the Historic District Commission.
- The site is over 90% impervious, and will become 100% impervious with this project.

Commission/Applicant Discussion: Mr. Stone questioned the reason for the setback. Adam Hager, of Frederick, Seibert & Associates, stated the setback is necessary for access to the building and to assist with patron circulation. Otherwise, the doors would be opening up directly onto the sidewalk. Mr. Bockmiller added that they have to build the addition so that the first floor level matches up with the stage level, which puts the new lobby slightly above the existing street level of the Maryland Theatre courtyard. There will be an elevator to meet handicapped access requirements. Rails along the steps are not necessary for the Americans with Disabilities Act (ADA) requirements. **Mr. Miller noted the architectural rendering for the new front should include railings along the front steps and should be included in the final plan.** Jessica Green, Executive Director for the Maryland Theatre, pointed out that there is a side entrance to access the lobby directly.

The existing walkway between the theatre and the Edison Building will remain. Part of the overall development plan for this area is to build a skywalk behind the buildings that will

connect several downtown buildings along South Potomac Street and West Washington Street. Mr. Hager explained the different access points associated with the tunnel under the walkway and the seating area on the first floor. Once this project is completed the site will be 100% impervious.

**MOTION:** (Wheeler/Miller) I'll make that motion (to approve the sketch plan).  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

The planned timeframe for this project is demolition in January 2018, with completion slated for the summer of 2019. Mr. Hager stated that the site plan has been submitted and is under review.

### **Stone Ridge Apartments – End of Haven Road – Consultation.**

Stephen Cvijanovich of Fox & Associates; and Sharon Redmond and Mark Knott of Stone Ridge Apartments were present.

Staff Report: (Copy of staff report in meeting file) The apartments at the end of Haven Road are under new management and the new owner has been renovating the complex. There are 105 townhouse and apartment units in the development; parking provided for the development is 160 spaces which is less than the two spaces per unit that is required by the current ordinance. The buildings are configured on two pods that each have four buildings. This arrangement creates a wall around a central courtyard in each pod.

The owner is planning to submit a site plan to convert the interior courtyard in the northern pod to a 32-space parking lot. An additional 16 spaces are proposed adjacent to the remaining pod. This would increase the onsite parking to 202 spaces after accounting for existing spaces that will be lost when a driveway entrance is created for the new parking lot.

Staff noted that this creates a dilemma when considering compliance with current requirements for open space and parking and which of these requirements are viewed as more important. Staff left it up to the Planning Commission to determine which requirement would take precedence after discussing the issue with the applicant and the engineer. Mr. Bockmiller pointed out that even though this is an existing apartment complex, a site plan will still be required since the disturbance will be over 5,000 square feet.

The courtyards in this development are the areas that would meet the Ordinance's intent toward "open space" but shall not be comprised of accumulations of leftover remnants of land on the site. Open space must constitute meaningful contiguous areas of land which provide for the preservation of significant natural features, and/or provide recreational amenities. If this was

totally new construction, the site plan would need to show 20% of the site as open space. The applicant's engineer submitted a drawing showing areas around the site which together could form the open space; however, staff felt it did not meet the requirement of not being "assembled remnants," although there is no definition of "meaningful contiguous areas."

The current parking for this development does not meet current minimum requirements. The proposed parking area would bring on-site parking much closer to compliance, but real "open space" would be sacrificed in order to do so. The commission must decide which is more important, open space or additional parking.

Staff recommended that should the Planning Commission indicate to the applicant that their proposed project is the "lesser of two problems," that there be expectation that the areas identified by the applicant's engineer as alternative open space be improved with appropriate amenities, such as benches, a gazebo, or other improvements that make the remaining open space more meaningful and useful.

Commission/Applicant Discussion: Mr. Cvijanovich stated that the property was purchased by his clients in August 2016. In addition to the information provided by staff, Mr. Cvijanovich indicated that there is a platted reservation of right-of-way for Haven Road Extended on his client's property of almost an acre. If the City decides to build Haven Road Extended, Stone Ridge Apartments would lose ten spaces. With the number of improvements (which are approximately 60% complete), the large amount of money being spent, and the need to increase the rents which will remove the development's qualification for public subsidy, the owners anticipate more of a working class individual or family living in these units. Public housing residents do not have vehicles and tend to use public transportation so there are fewer vehicles. The new owners have changed the demographic resulting in two-car families so the current 160 spaces will be an issue. The problem could be even more exacerbated in the future if Haven Road Extended is built which would reduce parking to 150 spaces.

The additional parking is proposed for the courtyard (32 spaces), and eight spaces in front of two buildings. As staff indicated in its presentation, four or five spaces would be lost to a drive aisle to the 32 space lot. The plan proposes increasing the number of parking spaces to 202 spaces, which is still eight spaces short of ordinance requirements.

Mr. Stone observed that in terms of the market the new owner is going after, the developers believe the addition of parking spaces will offset what is lost in terms of landscaping. Mr. Cvijanovich agreed with that statement. They would be losing courtyard area/green space; the development does not currently have basketball courts or hardscape. There is green space within the dedicated right-of-way area. The few times he was on site, he did not observe residents making use of the courtyard green area. The plan is to landscape around the courtyard

parking lot to help reduce parking lot glare. Mr. Cvijanovich added that the development is at 60% occupancy.

Commission members asked if there any other alternatives to parking. Mr. Cvijanovich stated that this is the best solution. The right-of-way reservation causes a problem for the complex owner. Mr. Bockmiller stated the Haven Road Extended is included in the City’s Comprehensive Plan. Mr. Cvijanovich said another concern is the walking distance from any of the parking areas to the units.

Mr. Knott indicated that paving will be replaced once renovations are complete. Mr. Bockmiller stated that staff would ask that if the commission decides the parking is the more important alternative, that the owner be asked to provide something in the way of amenities in the open space areas, although he had no recommendations at this point.

Mr. Miller stated he felt it could work. The complex will need the additional parking spaces since the renovations done so far have really improved the complex. Commission members agreed with staff that the developer will need to provide some type of amenities. The consensus of the commission was that the proposal is a reasonable approach and would be amenable to that in a site plan.

**Board of Zoning Appeals – June Hearing.**

Concerning the variance request by the Maryland Theatre, Planning Commission members agreed to send a letter to the Board of Zoning Appeals to support the build-to line variance.

**MOTION:** (Thomas/Miller) I move that we send a letter supporting the setback for the Maryland Theatre to the BZA.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**Announcements.**

Ms. Maher informed the Planning Commission that this is Alex Rohrbaugh’s last meeting. He has taken a position with the Lancaster County (Pennsylvania) Planning Commission.

Mr. Rohrbaugh has been with the Hagerstown Planning Department almost ten years. He will be leaving Chambersburg and moving to a new community near Lancaster. His new position will be “Senior Community Planner” and will be providing planning technical assistance to townships and boroughs in Lancaster County. His last day will be June 23. A farewell gathering will be

**Planning Commission  
MINUTES – Workshop Meeting**

**June 14, 2017  
City of Hagerstown, Maryland**

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held on Friday, June 23 at 3:00 p.m. in Room 407. Commission members thanked Mr. Rohrbaugh for his service and wished him well in his new job.

**Adjourn.** It was moved and seconded that the meeting adjourn (6:00 p.m.)

7/19/2017

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Approved



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Debra C. Calhoun - Secretary