

Douglas S. Wright, Jr., chair, called the meeting to order at 4:00 p.m., on Wednesday, August 9, 2017, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell, P. Corderman (late), D. Miller, and R. Thomas. The following staff members were present: K. Maher, Director of Planning and Code Administration (late); S. Bockmiller, Development Planner/Zoning Administrator; and D. Calhoun, Secretary. (NOTE: Planning Commission revisions are indicated in red text.)

**Approval of Minutes:**

July 26, 2017 – Regular Meeting.

- MOTION:** (Thomas/Wright) I make a motion to accept the minutes as presented.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (ABSTAIN – Campbell, Miller)

**ESD Sketch Plan – Urban Education Complex – 13-17 South Potomac Street (Continued from July 26 Meeting).**

Staff Report: (Copy of staff report in meeting file) A sketch plan for stormwater management was received for the “Urban Education Complex,” located between the Maryland Theatre and the Barbara Ingram School for the Arts (BISFA). The proposed area of disturbance is 0.25 acres, most of which is an existing building and will be replaced with a new building. The City Engineer’s comments concerning stormwater management are included with the staff report in the meeting file.

Planning staff identified no items that will require waivers from the provisions of the Subdivision and Land Development Ordinance (Article 5, Land Management Code); the development is not subject to the Forest Conservation Ordinance.

Regarding unique conditions, staff asked the commission to consider the following items:

- The construction will abut the existing BISFA and connect with the planned expansion of the historic Maryland Theatre via a short skyway above a pedestrian walkway which will be maintained between this development and the Maryland Theatre.
- The property is located in the Downtown Local Historic District. The work, including the site plan, is subject to review and approval by the Historic District Commission (HDC). The HDC has already completed the first phase of a two-step process to secure approval

of the demolition of the existing “Edison Building.” Exterior design of the facility will require a Certificate of Appropriateness from the Historic District Commission.

- The site is currently entirely impervious which will not change with the proposed construction.

Mr. Bockmiller noted that the applicant is working with the City Engineer to participate in a cooperative stormwater management arrangement with the other projects being considered for this block. (Ms. Maher arrived.) There was a question at the July 12 meeting concerning a drainage trench shown in the basement of the building. Tony Taylor of Frederick, Seibert & Associates explained what is shown on the plan is not an open trench but a pipe that will drain into the stormwater management system. The pipe will be removed once the project is complete. Mr. Thomas asked that a note be added to the site plan explaining that the pipe will be removed.

Staff recommended approval.

Commission/Applicant Discussion: Mr. Wright questioned the “silt fence on pavement” which runs in front of the Maryland Theatre. Mr. Taylor indicated the silt fence is part of the Maryland Theatre plan and it is shown on the plan for continuity. There were concerns that pedestrians might be forced to walk in the street to maneuver around the construction zones. This is in the vicinity of where BISFA students are dropped off and picked up. It is possible that a covered walkway could be used, but that would be up to the City Engineer’s office. Another option would be to convert the parking lane into a walkway. The existing buildings will be torn down from the back to the front. A construction schedule has not been finalized.

There were no additional questions or concerns by the commission.

**MOTION:** (Campbell/Miller) I’ll move for approval.

**DISCUSSION:** A note needs to be added about the temporary drain in the basement and pedestrian access for the Maryland Theatre needs to be worked out.  
Ms. Campbell and Mr. Miller agreed to the conditions on the approval.

**ACTION:** APPROVED (Unanimous)

### **ESD Sketch Plan – Lidl – 17974 Garland Groh Boulevard.**

Staff Report: (Copy of staff report in meeting file. Mr. Corderman arrived.) This sketch plan is for the unimproved 7.53-acre portion of a 55+ acre tract located west of Garland Groh Boulevard between Hager’s Crossing Drive and Broadfording Road. The plan calls for a single-unit retail building measuring 130 feet by 300 feet. One hundred ninety-nine parking spaces will be required and that number will be provided. Primary access will be via two-way driveway

entrances from Hager’s Crossing Drive and Broadfording Road. Sidewalks are being provided and shown on the sketch plan.

The City Engineer’s report concerning stormwater management is included in the staff report in the meeting file.

Regarding environmental features, there are two areas of floodplain on the property. These areas are priority areas for reforestation. One is a 90-foot wide area along Garland Groh Boulevard which provides the site’s primary commercial visibility corridor. The other is on the western edge of the site’s frontage on Hager’s Crossing Drive. This project will require approximately 1.5 acres of forest planting. The applicant is amenable to using the entire area of the latter floodplain area (about 0.82 acres) for forest replanting. A 0.7-acre stand along the western property line will be removed.

Although there are small trees in this area, there are no existing forest stands or remarkable environmental features in the eastern floodplain area, and the store will likely want to maintain visibility from Garland Groh Boulevard. As a result, staff requested the applicant consider an aggressive landscaping plan of species that tolerate flood-prone areas to add as much “curb appeal” to this area as possible. The applicant has agreed to the City’s request. Staff must research whether a forest conservation ordinance variance will be necessary to process in this case to give street trees/fee-in-lieu preferential status to a priority area like a floodplain. This does not need to be addressed at this point in the review but staff and the applicant asked for the commission’s feedback as to whether this approach is a preferred approach to comply with the Forest Conservation Ordinance.

The new supermarket building will be large and will be located close to Broadfording Road, however, there are houses on the north side of that street. Although Lidl incorporates good “corporate architecture,” staff suggested that additional attention be paid to the appearance of the north side of the building and its impact on the adjacent residential area.

Staff indicated that this development appears to have the potential to comply with all development standards except one which is the requirement for six feet of landscaping around the base of a building. No landscaping is shown on the south or east sides of the building. There is no paving to the west of the building. Unlike Lidl’s Dual Highway site, there are no topography extremes or other environmental features that would create difficulty in complying with this requirement. Staff suggested that landscaping be installed on the south and east sides of the building. If this plan remains unaltered, a waiver will be necessary for the six feet of landscaping on two sides of the building.

Commission/Applicant Discussion: Mr. Wright asked about discharge rates from the stormwater management ponds shown on the sketch plan. Brandon Rowe of Bohler Engineering stated that water quantity will be handled in underground retention facilities. Sheet flow from the bio-retention facilities will flow into underground chambers and then be released at the predevelopment rate. Mr. Wright asked how extensive the retaining walls will be. Mr. Rowe stated they will be a maximum of ten feet tall and taper off from there. The purpose of the retaining walls is to ensure the development does not impact the floodplains with encroachments. Mr. Bockmiller added that once the forest conservation area grows out the wall will be invisible. Safety fencing will be placed on top of the wall. The sign will need to be pulled back due to the floodplain.

Concerning coordination with Washington County, Mr. Bockmiller stated that the engineer and the developer are still negotiating with Washington County about what they will need to do to improve Broadfording Road. They are expecting the County to require improvements but do not know what will be required.

Mr. Rowe said the variance and forest conservation is a concern with the floodplain along the Garland Groh frontage. This area will be cleared and grubbed. Landscaping is proposed since they cannot maintain it in the floodplain. Mr. Bockmiller noted that if they do not do their planting, it will be installed in the other floodplain. If they do not plant in a priority area, the developer will need a variance. Planning Commission members were not adverse to a variance request since visibility is important for the business.

Concerning approval of the sketch plan:

**MOTION:** (Campbell/Thomas) I'll move for approval.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**Burger King Rebuild – 503 Dual Highway, Site Plan,  
Case No. ZS-2017-04.**

Staff Report: (Copy of staff report in meeting file) This site plan is for the northwest corner of the shopping center that contains the Aldi food market. The plan calls for demolition of all existing improvements except the freestanding sign and construction of a new 2,716 square-foot Burger King restaurant with a drive-through aisle and 29 parking spaces.

The entire Burger King property will be used as well as a portion of the adjacent shopping center property. The existing property line would be retained and cross easements for parking and

circulation would be exchanged between the parties. The applicant is providing new landscaped islands at the end of parking rows which is consistent with what was provided when the nearby AutoZone was developed. Staff has been informed that a site plan for the Krispy Kreme store on the adjacent parking area will be submitted into the site plan review process by August 15. Development of the Krispy Kreme site will implement most of the shopping center's internal parking landscaping retrofits. The engineer for the Burger King rebuild has provided accurate calculations demonstrating that the construction of this facility and the planned bakery next door will not create a violation of the minimum parking requirements for the shopping center and these two improvements. Parking will exceed minimum requirements by 23 spaces.

The applicant applied for and received a variance from the Board of Zoning Appeals to construct the new restaurant 6.8 feet from the rear property line. In addition, the applicant is requesting design waivers for the following items:

- Reduction of the ten-foot buffer along South Cleveland Avenue to six feet;
- Reduction of the six-foot landscaping requirement around buildings to zero feet in places; and
- Reduction of the width of internal landscaped islands to conform to the existing traffic patterns. The landscaped islands are custom designed in the main parking lot so as not to consume any needed parking. As a result, some parts of them are narrower than would otherwise be required. (The Planning Commission granted such a waiver to the AutoZone development—this would provide continuity and consistency with that precedent on this site.).

Staff noted that the site plan is consistent with the approved ESD sketch plan in layout and design. All review agencies have approved the site plan with the exception of the City Engineer, and the Water and Wastewater Divisions. Staff recommended approval of the waivers as requested and recommended approval of the site plan, subject to the outstanding comments.

Mr. Bockmiller added that a determination has been made that the Krispy Kreme development will need to be on its own lot in order to obtain water service. Also, pedestrian access has been added near the intersection of the Dual Highway and South Cleveland Avenue. A substantial landscaped island was added. Two of the islands will be constructed by Burger King and four will be constructed as part of the Krispy Kreme development.

Commission/Applicant Discussion: Mr. Wright asked for a condition that Burger King will take care of all the landscaped islands in the event that the Krispy Kreme development does not come to fruition. Mr. Corderman was concerned about the location of the pedestrian access point that traverses the drive-through aisle and questioned its safety. Staff noted that it was determined to be the safest location for the pedestrian crossing. Mr. Miller asked if the City Engineer's third comment had been addressed (attached to staff report in the meeting file). Mr. Bockmiller stated

that the inbound entrance from the Dual Highway is roughly in line but needs to be moved over slightly to the right.

Concerning approval of the site plan and waivers:

**MOTION:** (Miller/Campbell) I'll make that motion (to approve the site plan with waivers, and a note about the parking lot landscaping if Krispy Kreme does not come through).

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

Mr. Bockmiller stated that the developer has applied for the building permits, but staff has received no word back from the State Highway Administration.

### **Site Plan Revision: Cortpark – Redesign of New Entrance Road.**

Mr. Wright and Mr. Miller did not participate in the discussion or vote on this matter. Mr. Thomas assumed the chair.

Staff Report: (Copy of staff report in meeting file) This is a revision to the site plan previously approved by the Planning Commission that would increase the number of units in each building. The emergency access road shown on the approved site plan had to be revised from a crest curve to a sag curve. The crest curve would have increased the height of the water against the adjacent property owned by Lowe's slightly, and Lowe's would not sign off on that. Therefore, the engineers needed to find an alternative. At the last meeting there were concerns by the commission that the majority of the road would be in the floodplain. At the last meeting the commission tabled the matter so the engineers could come back with a proposal for a flood warning system. Mr. Bockmiller noted that this portion of Eastern Boulevard is located in a floodplain. If the new road is flooded, it is likely that Eastern Boulevard would be flooded too.

The engineers submitted documentation on the warning system being proposed. The information submitted with the documentation indicates where the various measures will be placed. The system will be a signed and flashing light warning system on both ends of the driveway. There will be a gauged meter at the lowest point where the water will accumulate.

Commission/Applicant Discussion: Justin Doty and Adam Hager of Frederick, Seibert & Associates were present on behalf of the developer. Mr. Doty stated that the maximum water depth at the lowest point would be 2.9 feet in a 100-year storm which is comparable to what Eastern Boulevard experiences in a 100-year flood event. Mr. Hager stated that there will be one warning sign closest to the parking lot. If a motorist pulls in to the road and needs to turn around there will be space to do so.

Mr. Corderman asked if there is an alternative to the road. Mr. Doty said that was the original request that Lowe's rejected. There is no other way to do it. Culverts are not possible based on the requirements of the Maryland Department of the Environment. Mr. Bockmiller stated that even though staff is opposed to placing the road in the forest conservation area, he asked if that would be a possibility. Mr. Doty felt there would be more impact if the road was placed in the forest conservation area. The available options were listed as follows:

- Option 1 – build the crest curve (need approval from Lowe's);
- Option 2 – build a sag curve instead of a crest curve;
- Option 3 – build through the forest conservation area if flooding models will work;
- Option 4 – deny the application because the developer cannot achieve the required second access.

Mr. Corderman had concerns about not staying out of the floodplain. The ordinance does not allow a road designed to City standards to run through a floodplain. Mr. Corderman was not convinced that the emergency access road is just a driveway since it will not be blocked off. He believed the road will be used as a cut through.

Ms. Campbell had no concerns about the flashing light system. Mr. Corderman observed that people still drive through the flooded underpass at Memorial Boulevard and get stuck. The public's health and safety must be paramount—and if there is an issue and people get swept away then it will come back to the City because the design was approved. Mr. Doty noted that any flooding in this area would be mostly still water. He added that this is the best design that could be offered in this location. Eastern Boulevard would be flooded at the same time as this access road—motorists would have to drive through the flood waters on Eastern Boulevard to use the flooded access road. Mr. Corderman asked if it would be possible to build an elevated roadway that would not impact Lowe's and neighboring properties. Mr. Doty said **it is not possible** ~~not~~ using the criteria required by MDE.

Ms. Maher suggested a gate at the parking lots at Cortpark to keep residents from driving out on the access road in the first place. Mr. Corderman cited problems with the automatic gate at Memorial Boulevard and was not convinced it would be a solution. Mr. Doty stated that an argument could be made that flashing lights should be placed on Eastern Boulevard. Jim Bender, Assistant City Engineer, is aware of the modifications and has no concerns, aside from the one sign being moved.

Ms. Campbell made a motion to accept the option that is in front of the commission, however, the motion died for lack of a second. The commission then discussed whether the chair can second a motion. Staff was unable to clarify if that would conform to Robert's Rules of Order. After discussion, the commission decided that it would hold a special meeting when more voting members could attend. Ms. Campbell stated if the meeting is held during the day she would like

**Planning Commission  
MINUTES – Workshop Meeting**

**August 9, 2017  
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to participate via conference call. All members would need to have access to the same documents. The meeting will be held as soon as possible.

Ms. Campbell withdrew her motion to approve the revised site plan.

**MOTION:** (Campbell/Corderman) I move to table the discussion.

**DISCUSSION:** None.

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

**Adjourn.** It was moved and seconded that the meeting adjourn (5:40 p.m.)

9/27/2017

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Approved



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Debra C. Calhoun - Secretary