

James W. Stone, vice chair, opened the meeting at 7:00 p.m., on Wednesday, October 25, 2017, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Director of Planning and Code Administration Department; S. Bockmiller, Development Planner/Zoning Administrator; and D. Calhoun, Secretary.

## **PUBLIC REVIEW MEETING**

### **Cluster Subdivision Amendments, Land Management Code Amendments, ZT-2017-04.**

Mr. Stone explained the public review meeting process for text amendments.

Staff Report: This is a proposed amendment to Article 4 and the section on cluster subdivisions. To date, the City has not received a subdivision application for a cluster subdivision in at least 15 years. Staff recently began processing a sketch plan application for a 48-unit townhouse cluster subdivision. Preliminary review of the proposal identified issues that would block the pending proposal, and the language could be interpreted to permit development concepts not intended by the ordinance. Staff believes that for these two reasons, this amendment should not wait to work its way through the package review process and should be moved to official consideration as soon as possible.

From 2010 to 2012, staff and the commission worked to overhaul the Land Management Code which became effective in October, 2012. This was a comprehensive undertaking that incorporated many corrections, updates, reorganizations and new policy implementations. One of the major policy changes was to create minimum lot size requirements that varied among the residential zoning districts. At the time it appeared that because of the new, smaller lot area requirements in the RMED, RO and RH zoning districts, it would be very unlikely that the City would receive an application for a cluster subdivision in those zoning districts. Language was inserted limiting cluster developments to the RMOD District to simplify the provision and not due to any desire to prohibit cluster developments in those districts. The cluster lot area chart did not seem like it needed adjustment to account for this change, and that remains the same. Staff reviewed the record, and it appears that this proposal was considered “housekeeping” and was not subject to any appreciable discussion.

In retrospect, this change was ill-advised and staff believes that as a matter of policy, clustering in order to create more open space in developments should be encouraged in all districts—not just the RMOD District. A copy of the proposed text amendment is in the meeting file (Article 4 [Zoning], Section D [Residential Districts], Subsection 6 [Cluster Developments]).

Per discussion at the September 27 meeting, staff adjusted the setback requirements and the minimum lot area and width requirements for townhouses in order to improve flexibility of design in cluster developments. The amendments address other deficiencies, including the addition of a minimum bulk requirement for semi-detached dwellings in the use chart; an addition to reduce the minimum front and rear setbacks since lots will be smaller; and an addition that partially addresses a concern about homes on their own lot as opposed to a row of townhouses on a single lot. Additional notes were added that follow the setback requirements (see page 4 of the staff report).

Mr. Bockmiller entered into the record the Planning Commission’s file by reference, the certificate of advertisement, and the memo of September 21, 2017 (and revised October 10, 2017).

Public Testimony:

There was no one present to speak in favor of or in opposition to the proposed amendment.

Mr. Thomas felt the proposed reduction in front and rear yard setbacks seem shallow. The residences will be almost to the sidewalk. Mr. Bockmiller stated that porches and stoops would have to be out of the setback. The reason for that distance is to create a minimum—that does not mean residences have to be built that close to the sidewalk. With this amendment staff is proposing to create more urban setbacks by opening up the building envelope which will provide more flexibility and the opportunity for individual design. Mr. Bockmiller referenced a development in Baltimore’s Inner Harbor as an example for this concept.

Responding to a call by the chair about whether to leave the record open for ten days:

- MOTION:** (Wheeler/Thomas) I’ll make that motion.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**REGULAR MEETING**

**Roll Call.**

The chair noted that commission members P. Corderman, D. Miller, and D. Wright were absent. Commission members Campbell, Stone, Thomas, and Wheeler were present.

**Approval of Minutes:**

September 13, 2017:

**MOTION:** (Wheeler/Thomas) I'll move approval of the minutes.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

Mr. Stone noted that there was a request to re-arrange the order of the agenda by moving the Burhans Village concept plan and waiver request to the front of the Development Review portion of the meeting.

**MOTION:** (Wheeler/Campbell) I'll make that motion (to amend the agenda to move Burhans Village to the beginning of the Regular Meeting agenda).  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**Development Review:**

**Burhans Village – 530 Mitchell Avenue, Concept Plan, Case No. C-2017-02.**

Staff Report: (The staff memo is in the meeting file.) Staff gave commission members a summary of the proposal. This is a sketch plan for a cluster subdivision known as Burhans Village, containing 6.21 acres and zoned RMED (Residential-Medium Density). The development consists of the following:

- Forty-eight townhouses on fee simple lots, divided into six sticks of eight units each.
- Each unit will have two parking spaces in front of the unit with a small amount of landscaping along the base of the front façade that will vary from two to nine feet in depth, depending on the unit, except one unit will have no landscaping.
- A community center measuring 30 x 67 feet along North Burhans Boulevard.
- One new public street which will connect Burhans Boulevard and Mitchell Avenue. The new street will be 30 feet wide (curb to curb) with a sidewalk immediately adjacent. There will be no parking on this street.
- Thirty-seven additional parking spaces located on the west end of the development at the community center and along the existing alley right-of-way which the developer will improve to the point of its current terminus.
- A network of open space that includes a 220 x 220-foot triangular shaped, partially

forested area; the remaining portion of the development will use existing trees “limbed up” to create visibility and usability under the canopy, with a tot lot and trails. The area around the community center and along the Norfolk Southern rail line behind three sticks of townhouses will provide rear access to interior units on these lots. These are also being considered as open space areas.

- Two stormwater management facilities, one at each end of the new subdivision street.
- The lots will be less than the required 2,500 square-foot minimum lot area, per the cluster provision. The lot area lost due to the clustering provision will be offset 1:1 with open space. The proposed density of this development, at 7.73 units, per acre does not trigger a requirement for open space in itself, so the only open space requirement is the lot offsets (totaling 0.59 acres). The 1.89 acres of open space shown exceeds this requirement.

The remainder of the staff report is in the meeting file and includes a description of the property, an analysis of the subdivision, and data on the development. A through road is proposed to be constructed per discussion with the commission and encouraged by the City Engineer to eliminate the cul-de-sac. There will be a narrow turning radius which has been approved by the Fire Marshal. The existing alley will connect to Peleton Court. The Zoning Ordinance requires two parking spaces per dwelling unit; the City Engineer’s requirements add a third parking space per unit. The developer needed to come up with creative ways to provide a third space for each unit. As a result, the developer created a bank of 18 parking spaces along the edge of the open space lot off of the alley. There are also two parking areas for the community center and the one at the far end of the subdivision. These three together bring the total number to almost three parking spaces per unit.

The Planning Commission granted a waiver at an earlier meeting to allow the engineer to design the interior units with the rear property lines up against an adjacent property. There will be a ten-foot access easement across the rear portions of the lots so property owners can exit their properties in the back without trespassing.

Stormwater management was discussed later in the meeting by the Assistant City Engineer. Staff stated that two ponds are proposed and will be closer to a traditional stormwater management pond with steep banks. A trail network is proposed through the development. The subdivision will be identified with a monument-type sign located along Burhans Boulevard. Open space is provided along the community center, along the railroad track, and around one of the parking areas. The largest chunk of open space will be the large triangular space. Staff had concerns that if it was left as strictly natural conditions, it will not be very usable and it will cut down on visibility to the parking spaces in the rear of the development. A number of the existing trees will be retained. The development will have an urban-like environment with narrower streets and

sidewalks adjacent to the street. Staff noted that this is a difficult site and felt what is being proposed is the best design. A small amount of landscaping will be provided along the fronts of the houses.

Another concern of staff is the portion of the property at the entrance to the subdivision. The developer has no plans for this section. Mr. Bockmiller asked the engineer to develop some type of use for this area. The engineer, Michael Shifler, came in with a design for a semi-detached dwelling which meets the bulk requirements in the revised chart. Michael Shifler of Fox & Associates was present and told the commission that the duplex will face the entrance to the development. Mr. Bockmiller stated that the duplex would increase the dwelling yield to 50 units. This is a sketch plan so the duplex does not have to be shown on the concept plan.

The developer is requesting the following waivers:

- Contiguous row of 18 parking spaces (from the maximum of 15 spaces); and
- Elimination of a 10-foot public street right-of-way parking buffer across the front of the parking area at the community center.

In answer to a question by Mr. Stone about cluster subdivisions in RMED zoning districts, Mr. Bockmiller stated that the applicant understands that this would allow them to proceed at their own risk while waiting for the text amendment discussed earlier in this meeting to be approved by the Mayor and City Council.

Applicant/Commission Discussion: Mr. Shifler told the commission that the proposed street tree plantings exceed forest conservation requirements. Their idea is to remove underbrush and plant grass. There will be a “quasi park” area near the parking lot to prevent it from becoming a safety issue. The park will be shown on their development plan. A horizontal view plane will be maintained so residents can keep watch over their vehicles in the lot.

Concerning the open area near the main entrance, a majority of the Planning Commission indicated a preference for a duplex fronting on Peleton rather than just an open area that will require maintenance. Concerning the street radius, Mr. Shifler noted that there is a section in the code that allows radiuses down to 125° negating the need for a waiver/”special decision.”

In response to a question by Mr. Thomas concerning the stormwater management ponds, Mr. Shifler stated that the ponds will be fenced, similar to what was approved in the past for traditional stormwater management ponds. The ponds need to be shown on the development plan. Mr. Bockmiller stated that stormwater management areas against the street must be landscaped. In this development one of the ponds will be surrounded on three sides by streets and the other one on two sides.

Jim Bender, Assistant City Engineer, told the commission that the City’s Engineer’s two concerns include the area discussed for a semi-detached dwelling near the entrance. They would not be opposed to a semi-detached dwelling in the location but it is one of the worst locations for motorists to be backing out onto the road. They are also concerned about parking, especially illegal parking on the street or double-stack parking in the driveways that ultimately block sidewalks. They will continue to discuss whether the 30-foot curb-to-curb situation will work for this development. Their experience has not been good with residents obeying the No Parking signs. It is a behavioral issue rather than a design issue.

The commission took the following action on the waiver requests:

Waiver to increase the number of contiguous spaces in a bank of parking:

- MOTION:** (Thomas/Campbell) I’ll make a motion that we grant a waiver to allow them to have 18 parking spaces.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

Waiver to reduce the width of the landscaping bed between the parking lot and the street:

- MOTION:** (Campbell/Thomas) I’ll make a motion to decrease the landscaping buffer on the second parking lot.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

Concerning the sketch plan:

- MOTION:** (Campbell/Wheeler) I’ll make a motion to approve the sketch plan.  
**DISCUSSION:** Mr. Thomas amended the motion to make sure fencing is shown around stormwater management pond #2 just as it is around #1.  
**ACTION:** APPROVED (Unanimous)

**Maryland Theatre – 21 South Potomac Street – Lobby Expansion; Site Plan,  
Case No. ZS-2017-03; and Final Plat, Case No. S-2017-03.**

Staff Report: (Staff memo, which was read into the record, is included in the meeting file.) This plan is for the construction of a four-floor addition to the front of the existing Maryland Theatre building for additional lobby space, concessions, banquet hall, practice stage, and other improvements. The building will be built abutting the adjacent First Hose Company building, will be recessed approximately ten feet from the right-of-way of South Potomac Street (except

for a stair tower adjacent to the façade of the fire house), and will maintain the existing pedestrian walkway along the north side of the building. This will result in the demolition of the existing “McBare” building located between the Theatre’s front plaza and the fire house. There are no setback requirements in the CC-MU District. The Board of Zoning Appeals granted a variance to the “front build-to” line to allow much of the front façade to be located 9.8 feet back from the front street right-of-way. No landscaping or parking is proposed. Two street trees are required for this amount of frontage, and one is existing. The applicant is requesting a waiver to eliminate the existing street tree due to its proximity to the marquee and allow the Theatre to have no street trees along the frontage of this building. The proposed disturbed area is insufficient to trigger the requirement for a forest conservation plan. The final plat will remove the existing interior property lines creating one single lot.

The site plan and plat were reviewed by the Plan Review Committee on July 5. The property is located in the Downtown Historic District. The Historic District Commission has approved the site plan, the demolition of the McBare building, and the architecture for the addition. Approval of the demolition is contingent upon the applicant returning to the HDC with documentation that funding for the project is in place to ensure the replacement building will be constructed after the McBare’s building has been demolished. The design of the new addition was approved, subject to one minor condition.

All review agencies have provided approval of the site plan, with the exception of the Light Department (need to address a transformer issue) and the HDC (see above discussion). Concerning the final plat, all review agencies have approved it with the exception of Planning (subject to minor data corrections). Staff recommended approval of the site plan and the final plat, subject to the conditional approvals referred to above. Staff made no recommendation on the waiver regarding street trees. The purpose of the plat is to combine the McBare property and the Maryland Theatre property and the lot containing the alley.

Engineer/Commission Discussion: Adam Hager of Frederick, Seibert & Associates, and Jessica Green, Executive Director of the Maryland Theatre were present. Ms. Green addressed removal of the street tree. Not only will the existing tree block the marquee, it is also located in front of the emergency exits. Mr. Hager added that the tree needs to be removed for construction. They want to give the building as much visibility as possible. Ms. Maher noted that the maximum amount of sidewalk space is desirable due to the number of patrons going into and leaving the building for shows. Planning Commission members did not feel it would make much of a difference whether the tree was there or not. Mr. Bockmiller noted that it might be difficult to install another tree pit and also avoid utility lines.

Concerning the street tree waiver:

**MOTION:** (Campbell/Thomas) I make a motion to remove the requirement to install street trees.

**DISCUSSION:** Ms. Wheeler questioned what would be installed if the tree pit were to be removed. Mr. Hager and Ms. Green stated their preference would be to extend the sidewalk. Mr. Thomas suggested that the “bump” be removed to create additional space to discharge passengers and the Planning Commission had no concerns about bricking in the “bump” in front of the tower.

**ACTION:** APPROVED (Unanimous)

Site Plan and Subdivision:

**MOTION:** (Wheeler/Campbell) I move approval of the site plan and the plat, subject to the conditions.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**Urban Educational Complex – 13-17 South Potomac Street, Site Plan,  
Case No. ZS-2017-05.**

Staff Report: (Staff memo, which was read into the record, is included in the meeting file.) This site plan is for the construction of a 45,595 square-foot, four-story building that will expand the Board of Education’s offerings at its downtown location. The building will be built abutting the adjacent Barbara Ingram School for the Arts (BISFA) and will be separated from the Maryland Theatre and its proposed front addition by an existing pedestrian walkway. As a result of this construction, the existing walkway will be reconstructed. Interior access will be provided between this building and BISFA, and a short, enclosed skyway will connect the third floor of this building with the third floor of the Maryland Theatre addition. This will result in the demolition of the existing “Edison” building located between the Maryland Theatre courtyard and the existing Barbara Ingram School. The proposed improvements also include improvements to the rear of the existing Barbara Ingram School.

There are no setback requirements in the CC-MU zoning district. One street tree is required for this amount of frontage. The applicant is requesting a waiver to this requirement. The proposed disturbed area is insufficient to trigger the requirement for a forest conservation plan.

The site plan was reviewed by the Plan Review Committee on August 1. The property is located in the Downtown Historic District. The HDC approved the site plan, demolition of the Edison

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building, and the architecture for the proposed building. Approval of the demolition was subject to a condition that they return to the HDC with documentation that funding is in place to ensure the replacement building will be constructed after the demolition is completed.

All review agencies have provided approvals, with the exception of the City Engineer (three minor conditions outlined in the memo included in the meeting file packet), Planning (subject to minor data corrections), and the Historic District Commission (see discussion above). Staff recommended approval of the site plan and the street tree waiver from the requirement for a street tree on a property with 36 feet of frontage. The developer believes that a mature street tree will block visibility of the marquee on the planned expansion of the Maryland Theatre.

- MOTION:** (Thomas/Campbell) I move to waive the street tree requirement.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

Engineer/Commission Discussion: Tony Taylor of Frederick, Seibert & Associates, and Jeff Tedrick from Bowman Development were present.

Referring to the City Engineer’s comments, Mr. Stone questioned how long the sidewalk on South Potomac Street will be closed as a result of the construction. Mr. Taylor indicated that he would not be able to answer the scheduling questions raised by the City Engineer until the construction contractor has been hired. Rochester Alley will be closed during construction, however, they will try to minimize the impact on businesses along the alley. Pedestrians should be able to get to The Plum restaurant. Mr. Tedrick noted that scheduling will depend on the contractor selected and the best way to demolish the existing building and construct the new one. They hope to begin construction the beginning of January 2018. They will analyze ways to minimize the impact on the adjoining buildings and disruption to South Potomac Street and plan to provide safe access on all sides.

Mr. Tedrick was concerned about the project being delayed because the site plan cannot be signed. The Engineering Department’s comments appear to be tied to the building permit. Mr. Bockmiller said the requirement to meeting with the City Engineer before issuance of the building permit should be embedded into the site plan.

- MOTION:** (Thomas/Campbell) I move that we approve the site plan conditioned upon Engineering and Planning conditions.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**Planning Commission Business:**

**Introduction to 2017 Text Amendment Package.**

Staff and commission members discussed the first two sections in the 2017 Text Amendment Package, “Minor Issues and Corrections” and “Policy Proposals.”

**Section 1 – Minor Issues and Corrections:**

Page 2, 1.3.

- In the middle of the paragraph, change the wording to: “. . . otherwise be permitted *by setback requirements, reduction of parking spaces ~~are reduced below current minimum standards, or the development would no longer comply~~ complying with other bulk requirements of this Article . . .*”

Page 2, 1.

- Driveways in residential developments and commercial driveways must be paved with asphalt, concrete, or similar solid (non-gravel) method approved by the City Engineer.

Page 4, 1.10.

- Staff pointed out that language was added that would require sidewalks be provided from the front door of a building to the sidewalk.

Page 6, 1.17, Sketch Plan.

- Change the wording of the second, third, and fourth sentences as follows: “Review at this stage of development is *conceptual very generalized*. As such, approval of a sketch plan does not convey any vesting rights. ~~and~~ *When the project moves to development plan or site plan consideration, the City of Hagerstown and other review agencies reserve the right to raise issues or concerns not detected in this sketch plan review when the project moves to development plan or site plan consideration.*”
- The current language uses “sketch plan” and “concept plan” interchangeably. Staff proposes to call everything “Concept Plan” which will be shown on the next version of the amendments.

Page 6, 1.16.

- Change the wording of the second sentence as follows: “Review at this stage of development is *conceptual very generalized*.”
- As a result of feedback from the Mayor and Council during the McCleary Hill matter, staff clarified the definitions of triplex dwellings and quadraplex dwellings.

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**Section 2 - Policy changes:**

Staff reviewed each change individually (see meeting file). Commission members had no changes or additions to the proposed policy changes.

**Comprehensive Plan Update: Revisions per Maryland Department of Planning.**

Discussion on this item was postponed until the next meeting.

**Planner Position.**

Staff announced that Mr. Abdo withdrew his application for employment. The Planner position will be re-advertised.

**Adjourn.** It was moved and seconded that the meeting adjourn (9:20 p.m.)

1/10/2018

Approved



Debra C. Calhoun - Secretary