

**Planning Commission
MINUTES – Workshop Meeting**

**January 10, 2018
City of Hagerstown, Maryland**

James W. Stone, vice chair, called the meeting to order at 4:11 p.m., on Wednesday, January 10, 2018, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell, R. Thomas, J. Wheeler, and D. Wright (late). The following staff members were present: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator; M. Flick, Planner; and D. Calhoun, Secretary.

Mr. Stone noted that D. Wright was detained. Megan Flick, Planner, introduced herself to commission members.

Approval of Minutes:

October 11, 2017 – Workshop Meeting.

MOTION: (Wheeler/Campbell) I will move approval of the minutes.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

October 25, 2017 – Regular Meeting.

MOTION: (Thomas/Campbell) I move that we accept the October 25 minutes.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

125 North Prospect Street – Four States Christian Missions, Inc., Final Plat, Case No. S-2017-06.

Staff Report: (The staff report is in the meeting file.) This is a final plat for the consolidation of five contiguous parcels and a “paper alley” right-of-way that has been quitclaimed to the applicant by the Mayor and City Council. The total lot area after consolidation of the four parcels and right-of-way will total 2.52 acres. The new lot has street frontage on North Walnut Street, West Church Street, and North Prospect Street. The property is zoned CC-MU (City Center-Mixed Use). Based on prior discussions with the Planning Commission, an access easement for 115 North Prospect Street was to be provided; however, that property is now part of this consolidation so no easement will be necessary.

This plat was submitted for review by the City’s review agencies and all have approved the plat, except the City Engineer who recommended approval subject to the condition that the liber and folio for the quitclaim be placed on the plat in the space reserved for it.

Staff recommended approval, subject to the condition cited by the City Engineer. The Domino’s Pizza building on the corner of Church and North Prospect Streets will remain on its own lot and is not part of this subdivision.

Commission/Applicant Discussion: There were no questions or comments by the commission.

- MOTION:** (Campbell/Wheeler) I’ll make a motion to move for approval with the one condition by the City Engineer.
- DISCUSSION:** None.
- ACTION:** APPROVED (3-0; ABSTAIN - Stone)

**221 All Star Court (Lots E and E-1) – Hagerstown Commerce Center,
Final Plat, Case No. S-2017-07.**

Staff Report: (The staff report is in the meeting file.) The applicant proposes to resubdivide a 6.66-acre lot at the end of All Star Court into two lots containing 4.77 acres and 2.94 acres. The property is zoned CG (Commercial General). The owner has no specific plans for the lots at this time.

The existing forest conservation easement adjacent to the I-70 westbound ramp will be retained as part of the reduced Lot E which will result in an irregularly shaped lot; however, since nothing can be developed on the forest conservation area staff had no objection.

The plat was routed for review and all review agencies have approved it with the exception of the Planning and Code Administration Department. Planning has requested that a minor note correction be made and that the plat numbers for the previous subdivision and the forest conservation easement plat be added.

Staff recommended approval, subject to Planning staff’s comments.

Commission/Applicant Discussion: There were no questions by the commission.

MOTION: (Campbell/Wheeler) I'll move for approval, subject to the minor corrections/additions cited by the Planning staff.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

**38, 46, 54 South Potomac Street – Bowman 2000 LLC, Final Plat,
Case No. S-2017-08.**

Staff Report: (The staff report is in the meeting file.) This plat proposes to combine the Masonic Lodge property with the adjacent property that contains Potomac Walk and Bulls and Bears. The plat will remove the existing property line beginning at the South Potomac Street right-of-way approximately 105 feet towards the back of the property. That portion of the property line that is adjacent to the City-owned property containing the Arts & Entertainment District parking deck will remain.

The applicant is in the process of renovating the former Masonic Lodge building for offices and plans to create openings in the common wall allowing access to this building from Potomac Walk. The Building Code prevents creating openings in party walls divided by a property line. Therefore, it is necessary to vacate the property line so the two buildings are on the same property. The plat also makes minor corrections to an error in the bearings recorded in the line that divided Bowman's holdings from the City's holdings in the 2005 plat.

The plat was routed for review and all review agencies have approved it with the exception of the Light Department which is asking for minor notation corrections; and the Planning and Code Administration Department which is asking for correction notes on the plat.

Staff recommended approval, subject to the outstanding Light Department and Planning staff comments.

Commission/Applicant Discussion: (Mr. Wright arrived.) There were no questions by the commission.

MOTION: (Campbell/Thomas) I'll move for approval, provided the comments by Light and Planning are addressed.
DISCUSSION: None.
ACTION: APPROVED (4-0; ABSTAIN - Wright)

**EMSOURCE Group Companies – 580 Pangborn Boulevard, Site Plan,
Case No. ZS-2017-12.**

Staff Report: (The staff report is in the meeting file.) This is a grading remediation plan for the western portion of the former Pangborn Corporation property. The wooded western portion of this property was used for spoils dumping decades ago. In preparation for sale of the property, the owner must conduct environmental remediation of this area.

The area of disturbance consists of 1.6 acres, including 1.32 acres of forest that will be removed. The remainder of the disturbed area is existing concrete paving that will be used as a soil storage and staging area. A 0.38-acre area of forest adjacent to Pangborn Boulevard will be retained (which is outside of the work area) and used toward the forest conservation requirement for this project.

Grading will involve stripping approximately two feet of soil off the top of this area and taking it to an approved facility for treatment. A liner will be installed and new, uncontaminated soil will replace the soil that was removed. The net result of grading will be minor when compared to “before” and “after” conditions. Trees cannot be reestablished on the remediation site since their root systems could puncture the liner.

Mr. Bockmiller thanked the commission for allowing this site plan to be placed on the agenda prior to having all approvals in hand before the agenda went out. The owner is operating under time frame constraints with the Maryland Department of the Environment (MDE) and the commission’s next meeting is not until January 31.

The site plan was routed for review and all review agencies have approved it. Staff reported on a floodplain anomaly with this property. The Federal Emergency Management Agency (FEMA) floodplain maps identify the area of Hamilton Run on this property as a floodway, however, it is located on top of a hill. Hamilton Run in this area flows through a pipe 20 feet underground, creating confusion for staff as far as enforcement. The floodplain maps show a floodway, but it is underground. Mr. Bockmiller said he will place a note in the file stating that due to the fact that there is little net change in the grading once they remove the contaminated soil and replace it with clean soil and that in this area Hamilton Run is 20 feet underground in a pipe, staff determined that there is no impact. Keith Moore of Frederick, Seibert and Associates, Inc., engineers for the project, noted that this floodway area was not shown on the previous floodway map—it was added with the recent updates. Mr. Moore added that this designation required them to go through MDE for approval to grade in this area, and that review is still underway. Mr. Bockmiller requested a copy of MDE’s final approval for the file.

Concerning forest conservation requirements, the 0.38-acre forest will be protected by an easement and applied toward the forest conservation requirement and street tree credit for the existing trees along the street right-of-way. The remainder will be made up with a portion of the forest that is in the easement area. The proposal shows more forest conservation than is required and they would like to bank the remainder for future projects. Staff had no objection to that approach.

Engineer/Commission Discussion: Mr. Thomas asked what type of material was dumped on this site by Pangborn Corporation. Mr. Moore said this portion of the property was a machine shop and had furnace casting materials, such as discarded casting sands. Mr. Moore said his understanding is that the two feet of new material will be a “clean fill cap” on top which was the recommendation. MDE has approved their “cap” proposal.

Mr. Wright asked what will be done with the existing fence which is in poor condition. Mr. Moore stated that the plan does not show replacement of the fence. Mr. Wright would like to see a new ornamental metal fence from the railroad to at least the driveway on Pangborn Boulevard. Mr. Moore said he did know what the future is for this portion of the site. This plan addresses the environmental concerns; future tenants will be coming back with site plans for development on the site. Mr. Bockmiller noted that any asphalt in the forest retention area will need to be removed. Commission members agreed with Mr. Wright’s request to remove and replace the fence with an ornamental metal fence. Mr. Bockmiller noted that the fence must be located 15 feet back from the right-of-way.

MOTION: (Stone/Campbell) I’ll make a motion that we approve the grading remediation plan, with the condition that the applicant construct ornamental fencing to be reviewed by staff beginning where the gate is and going all the way around to the end of the disturbed area (at the railroad tracks).

DISCUSSION: Mr. Wright indicated that he was sorry to see that Hamilton Run could not be exposed, but he understood why it is not feasible. Mr. Bockmiller questioned “appropriate metal fencing to be reviewed by staff.” Mr. Wright clarified that the fence should be six-foot-tall, black vertical ornamental metal fencing, similar to what the Police Department has been promoting. Brick pillars are not necessary. Mr. Bockmiller asked that the motion be amended to add approval of the forest conservation plan. Mr. Stone and Ms. Campbell approved the amendment to the motion.

ACTION: APPROVED, AS AMENDED (Unanimous)

**50 East Baltimore Street – Thomas Kennedy Park, Minor Site Plan,
Case No. SA-2017-10.**

Staff Report: (The staff report is in the meeting file.) In conjunction with private efforts, the City is proposing to use a 75-foot wide by 109-foot deep area on the east end of the residual “Massey Property” as a pocket park. This park will be located where the “Bester House” was before it was demolished. This minor site plan is being brought before the commission for review since it is a public project. Given the simple nature of the improvements, staff waived most of the requirements that are part of a minor site plan.

The proposal is to erect a bronze statue of Thomas Kennedy on a three-foot tall granite pedestal in the middle of a plaza area that measures approximately 30 feet in diameter. Three granite benches will be located around the north, east, and west sides of the plaza. Flower beds are proposed to be located behind each bench. A pedestrian walkway will connect the plaza to the Washington County Free Library parking lot. An existing large tree will be removed (although it is shown on the plan) based on an assessment by an arborist who determined the tree is in poor health and might only live another five years. The Star of David motif on the plaza shown on the plan will be removed.

The backdrop to this park contains the rear views of homes that front on South Locust and East Antietam Streets. Staff has recommended to the Department of Parks and Engineering that a row of columnar evergreen trees that grow to about 20 feet in height be installed across the northern line of the park and along the east property line (from just in front of the rear façade of the adjacent house, moving north to join with the row across the rear property line). The City Engineer agreed to this request and the trees will be shown on the signature copies of the plan.

Staff noted that the conceptual improvements for expanding parking and relocation of the library driveway are not part of this site plan. They were provided for informational purposes only to show how the rest of this area could be redeveloped to support reuse of the Massey Building.

Ms. Maher asked if the sidewalk through the site will be reconfigured since it appears to circumvent the tree proposed for removal. Rodney Tissue, City Engineer, stated that the sidewalk will be rerouted slightly in the middle of the site.

All agencies have reviewed and approved the site plan. Staff recommended approval.

Commission/Applicant Discussion: There were no questions by the commission. Tom Riford of the Convention and Visitors Bureau noted that Thomas Kennedy submitted legislation 200 years ago this week to outlaw religious discrimination in Maryland and discussed Thomas Kennedy’s legacy. Toby Mendez is designing the statue that is proposed for the park. The State of

Maryland, Washington County, and the City of Hagerstown are assisting with the funding for the project. This will be the first statue in the Arts and Entertainment District and Thomas Kennedy Park will be the City’s 22nd park, fittingly directly across the street from B’nai Abraham Congregation.

MOTION: (Campbell/Wheeler) I move for approval.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

686 Pennsylvania Avenue – Sweeney Brothers – Potential Conversion District Overlay.

Staff Report: (The staff report is in the meeting file.) Mr. Bockmiller was approached by Darren Sweeney who has a friend that wants to operate a barber shop in one room of this building which is zoned IR (Industrial Restricted). Barber shops are not a permitted use in this zoning district. Staff informed Mr. Sweeney of the Conversion District Overlay option. The new owners have been cleaning up the building and they operate their masonry business out of it; a portion of the property is being used for an impound storage area for a towing company. Since this is different from a typical conversion district, staff recommended they come to the Planning Commission for advice.

Commission/Applicant Discussion: Ms. Campbell asked why the developers are not exploring options for the entire building. Mr. Sweeney said they currently have tenants in the building and would lose them. Mr. Stone noted that the City’s ordinance states that a Conversion District is for the entire building, and an overlay on one office in the building would not be permitted. Mr. Bockmiller read the purpose statement for Conversion Districts into the record:

“The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential, multi-story structures, to maintain and increase the City’s assessable base, to expand business and employment opportunities, and to protect residential neighborhoods from excessive traffic odors, fumes, noise, and light. The Conversion District provides an alternative development concept for underutilized structures while protecting the general health, safety, welfare, and aesthetics through the commitment to an approved development concept plan. Such structures must be in existence prior to October 1, 1956.”

Mr. Sweeney and his father, Ed Sweeney, feel what they are trying to do meets the intent of a Conversion District. Mr. Wright stated that the proposed barber shop falls outside of the permitted uses in this zoning district and there are no opportunities for use exceptions under state

law. Mr. Darren Sweeney stated that the Pennsylvania Avenue side is more of an office structure and three-fifths of the back portion of the building is more industrial. Mr. Ed Sweeney said their intent is to make the front of the building more attractive from Pennsylvania Avenue.

Ms. Maher stated that the Conversion District application would need to include the proposed barber shop use and all the uses that are in the building currently. Mr. Wright added that they can design what they want in the building and even ask for uses that they may want in the future. Mr. Bockmiller said his concern about this proposal was less about the use and more about procedure. What is typically proposed is rehabilitation and includes a list of proposed uses and the developer's plan for bringing the site up to current design standards. Ms. Maher told the Sweeneys that the commission and staff need to see a visual concept plan as to what is going to be done to beautify the site including delineation of parking spaces. Ms. Maher recommended that the Sweeneys set up a meeting with staff to develop the proposal further. The Sweeneys were also encouraged to think of uses they might want in the building.

**1301 Potomac Avenue – Eklund Family, LLC, Rezoning –
Recommendation to Mayor and City Council, Case No. ZM-2017-02.**

Staff Report: (The staff report is in the meeting file.) The public review meeting was held on December 6, 2017. No comments were received during the ten-day comment period. One of the issues brought up by the applicant's counsel was re-establishing the storefront windows. Since the public review meeting staff received historic photographs of the building which show storefront windows occupying the entirety of the infill space on the front of the building, including the clipped corners that included doors. When the site plan is processed elevations will be required that show these areas opened up with some configuration of storefront windows. This property is not in a historic district so there is no expectation of replicating the windows as shown in the photographs. Modern materials will not be an issue.

Staff recommended approval of the overlay, with the following conditions:

- The building shall be used for professional and/or medical offices.
- As required by Section J.3.i. of the Zoning Ordinance, no outdoor vending machines shall be permitted; no outdoor storage or display of any kind shall be permitted; no outdoor dining or seating areas shall be permitted; the building shall be rehabilitated as proposed by the applicant to accentuate the building's past use as an automobile service and sales facility, and the enclosed area on the east (front) façade of the building, including the two "clipped" corners, shall be reopened and storefront windows installed.
- Section J.3.i. does not apply as no building additions are proposed. The requirement to reinstall storefronts cited in Section J.3.i.(6) applies only to the front façade and not to

any other windows or service bay doors previously enclosed. However, nothing in this decision shall prevent the owner from reinstalling windows and doors in those spaces in accordance with the concept plan that accompanied this petition and the site plan that will be required to be submitted to the City and approved by the Planning Commission.

- The existing freestanding sign at the intersection shall be removed. All signage for the new use shall comply with current ordinance requirements of Article 4, Section I (Graphics) unless variances are granted by the Board of Zoning Appeals.
- In the required site plan process the applicant shall explore opportunities with staff to improve and increase the amount of landscaping in the parking areas on the east and south sides of the building.
- Outdoor trash storage (dumpsters, etc.) proposed in the initial development or a later reuse of the property shall be screened in accordance with the requirements of applicable City ordinances.
- The required site plan shall be substantially consistent with the rezoning exhibit and building elevation exhibits proposed with this rezoning application.

Commission/Applicant Discussion: Staff reiterated that this property is not in a historic district so the applicant does not need to determine what the original materials were. It is possible that the openings could have an opaque panel on the base similar to the Gourmet Goat.

Mr. Bockmiller stated that the expectation is that plywood shown in the photographs will be replaced with storefronts, however, there is some degree of flexibility. Mr. Wright asked about the possibility of abandoned fuel tanks on the site. Mr. Bockmiller noted that the site plan would require the developer to verify whether or not there are abandoned tanks. If there are underground tanks, most likely MDE would require the developer to remove them.

MOTION: (Stone/Campbell) I'll make a motion that we recommend that the Mayor and Council approve the Conversion District Overlay subject to the conditions outlined in the staff report.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

2017 Land Management Code Update – Begin Section 4.

Staff Report: (Copy of staff report in meeting file.) This section of the packet is a re-write of the graphics section. The primary reason for these revisions is to make the City's current regulations compliant with a recent United States Supreme Court decision on sign regulations that are based on content. Other "housekeeping" amendments have also been made. Staff used the Town of Gilbert's ordinance as a model since they updated their ordinance based on their Supreme Court

case. The City Attorneys have reviewed the draft ordinance and have deemed it “Gilbert compliant.”

Page 1:

- “Purpose and Intent,” first paragraph – Mr. Bockmiller was asked to rewrite this paragraph.
- “Purpose and Intent,” second paragraph – in the last line, change “Town” to “City” and add “address” at the end of the line (“ . . . and are intended more specifically to *address*.”)
- Remaining subsections under “Purpose and Intent” – remove the word “To” from the beginning of each subsection.

Page 2:

- Subsection 2.b.(2) – In the second line, change Subsection 2.b.(2) to Subsection 3.b.(2).
- Subsection 2.b.(3) – In the first line, change Subsection 5 to Subsection 6. The remainder of the text should be moved to Subsection 6 and the text should be changed to read “Streamers, pennants, ~~flying banners, graphics that use fans to generate movement~~ *blade signs or banners that utilize wind to create an effect*, and similar products are prohibited.”

Page 3:

- Subsection 2.b.(4) – This subsection will be removed and placed with the temporary graphics requirements. All temporary graphics language should be grouped together.
- Subsection 2.b.(5) – There is no intent to have a prohibition against stationary equipment.
- Subsection 3.b.(1) – Add a reference to the specific section.

Page 4:

- Subsection 3.b.(9) – This section should be reworded as follows: “~~The minimum size and required posting of~~ Graphics informing the public of gasoline sales prices in accordance with Maryland law *for minimum size and required posting* shall not be calculated for the purpose of maximum graphic area, *however*, ~~†~~ that which exceeds the minimum required by Maryland law shall be included in the maximum graphic area.”

Page 5:

- Subsection 5.a. (chart) – In the first line, there was concern about allowing a maximum height of ten feet for signs in the RMOD, RMED, RH zoning districts. Staff noted that there is no content change to the language in the chart, just the formatting. Also, staff was asked to check for conformity with regard to the asterisk (*) information below the chart for the exclusion of home work stations.

Page 6:

- Subsection 5.d. – Concerning personal residential signs, commission members debated what can be enforced with regard to signs in residential districts. Mr. Wright said the City cannot tell property owners they cannot put a sign on their property and it cannot regulate what the language says on the sign; however, it can regulate size and location. Staff was directed to consult further with the City Attorney on this matter. Commission members may want to drive around the City to see what types of signs are out there in residential districts.

Adjourn. It was moved and seconded that the meeting adjourn (6:15 p.m.)

3/14/2018

Approved



Debra C. Calhoun - Secretary