

Douglas S. Wright, Jr., chair, opened the meeting at 7:01 p.m., on Wednesday, December 6, 2017, in the Council Chamber, Second Floor, City Hall. Also present were commission members R. Campbell, P. Corderman (late), J. Stone, and R. Thomas. 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

1301 Potomac Avenue – Eklund Family, LLC, Rezoning, Case No. ZM-2017-02.

Mr. Wright explained the public review meeting process for the proposed zoning map amendment. Mr. Thomas recused himself from the discussion in that Dr. Eklund is his dentist.

Staff Report: A copy of the staff report and analysis is in the meeting file. The purpose of the proposed Local Conversion District Overlay is to convert an existing electronics store to medical offices for the applicant's dental practice. The property is located at 1301 Potomac Avenue and contains 0.256 acres. Mr. Bockmiller entered into the record by reference the Certificate of Advertisement, and a copy of the petition. Mr. Bockmiller read into the record an email from the City Attorney, Jennifer Keefer, stating that she had no concerns about the sufficiency of the application.

Mr. Bockmiller read the staff analysis into the record. This property was one of the properties staff had in mind when the Local Conversion District Overlay concept was created several years ago. With their application the applicant provided air photos and architectural schematics to restore the building back to its original appearance of an automobile dealership. Storefront-like windows will be re-installed and the applicant plans to simulate the service bay doors on the south elevation.

After visiting the site, staff recommended the following site plan conditions:

- The Potomac Avenue storefront windows shall be rehabilitated to reintroduce a storefront window display design. The proposal also calls for reintroducing the service bay openings on the south (East Magnolia Avenue) side, however, this is not a requirement of the Ordinance. Technically, the service bay openings on Magnolia Avenue do not meet the definition of a storefront window. Reinstalling the front display windows is required by the Ordinance.
- The existing freestanding sign at the intersection shall be removed. All signage for the new use shall comply with the current ordinance requirements of Article 4, Section I (Graphics).

- The Applicant shall explore opportunities with staff as part of the required site plan process to improve and increase the amount of landscaping in the parking areas on the east and south sides of the building.
- Although none are proposed at this time, the rezoning approval should contain a condition that any future outdoor trash storage (dumpsters, etc.) be screened in accordance with ordinance requirements.
- The required site plan shall be consistent with the rezoning exhibit and building elevation exhibits proposed with this rezoning application.

Staff noted that there are inconsistencies between the submitted exhibits and the proposed layout of the parking lot. Mr. Stone asked what the new garage doors will open into if they are re-introduced. Mr. Bockmiller stated that he has not seen the floor plans—the garage doors may be nonfunctional.

Applicant's Presentation: William C. Wantz, attorney for the applicant, 123 West Washington Street, Hagerstown, Maryland; Dr. Rhett Eklund, Principal, Eklund Family, LLC, 21508 Mt. Aetna Road, Hagerstown, Maryland; and David Flowers, 222 Michigan Drive, Falling Waters, West Virginia, Manager of Allegany Electronics, Hagerstown, Maryland, owner of the property, were present.

Mr. Wantz endorsed the staff report as presented, but noted that the proposed windows on the Potomac Avenue façade will be more industrial in nature and will not look like traditional storefront windows. With regard to staff's comments about the layout of the parking lot, the applicant plans to work with the City Engineer to develop the best parking arrangement to maximize the parking areas at the site plan stage. Mr. Wantz noted that there are opportunities for off-street parking.

The current zoning is RMOD; the proposal is to add a Local Conversion District Overlay (LCDO) to the property. The application packet was entered into the record by reference. Mr. Wantz asked the Planning Commission to consider the proposed uses as listed in the application, which include dental, medical, business and professional offices, facilities, and clinics. Also entered into the record were a vicinity map; a memorandum dated August 9, 2009, noting that this property was a potential candidate for a LCDO; copies of the Housing and Neighborhoods Element of the Comprehensive Plan; and a history of the property (all of which are included in the meeting file). Mr. Wantz noted that the proposed zoning overlay will have no impact on the neighborhood's population or on the traffic patterns.

Concerning the design requirements of the Local Conversion District Overlay, Mr. Wantz introduced Dr. Rhett Eklund who spoke about his efforts to preserve this building. Dr. Eklund stated that his father started the dental practice in the 1970s. Dr. Rhett Eklund would like to remove the modern alterations that have been added over the years and bring the building back to

its original look. He has hired an interior/exterior design team from Frederick and this type of design work is their specialty. The garage doors on the East Magnolia Avenue side will not open, but they will resemble garage doors with elements of a De Soto automobile as part of their architectural design. The building will not be enlarged and the flat roof will be retained. Parking areas will not be reduced. For the exterior signage Dr. Eklund envisions an illustration of the building circa 1940s as part of the design. He is looking for historical photos of the building to keep the exterior renovations true. The Potomac Avenue façade and entrance will be very similar to what is there now, including the pent roof. The asphalt shingles will be switched out with a more industrial looking material.

With regard to timing of the project, Dr. Eklund has a contract for sale and the contract is based on obtaining the proper zoning for his medical office use. He also needs to apply for financing.

Mr. Stone asked if the architectural rendering is a reliable example of what the building will look like when the project is finished. Dr. Eklund explained that the windows were chosen by his designer and they look similar to the ones shown. Mr. Bockmiller clarified the ordinance requirement concerning storefront windows. The intent of the “storefront window” language is to open up any historic window openings that have been closed in over time. It is not necessary to redo the exact look. What is being proposed by Dr. Eklund concerning the window treatment meets the ordinance requirement and staff had no concerns with what is proposed.

Mr. Corderman was concerned that substance abuse programs could locate in this building. Mr. Wantz explained that the additional uses were added for flexibility if the dental office closed at some point in the future. He stated that the Zoning Ordinance specifically excludes substance abuse programs.

David Flowers, 222 Michigan Drive, Falling Waters, West Virginia, Manager of Alleghany Electronics, told the Planning Commission that the business was owned and operated by his family. He has a contract with Dr. Eklund’s limited liability company and he supports the application. From the inside, the existing windows appear to be glass panels with wood panels underneath the glass. He believes the proposed design will be more aesthetically pleasing. The electronics business has been in this location since 1955.

Public Testimony:

No one spoke either in favor of or in opposition to the proposed rezoning.

**Planning Commission
MINUTES – Regular Meeting**

**December 6, 2017
City of Hagerstown, Maryland**

MOTION: (Stone/Campbell) I'll make a motion that we keep the record open for ten days to receive any additional comments.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Thomas)

Mr. Thomas rejoined the discussion.

REGULAR MEETING

Roll Call.

The chair noted that commission members D. Miller and J. Wheeler were absent.

Approval of Minutes:

September 27, 2017 – Regular Meeting:

MOTION: (Thomas/Stone) So moved (to approve).
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

October 11, 2017 – Workshop Meeting:

The October 11 minutes were not ready for approval.

Development Review:

Lidl US Operations – 733 Dual Highway – Grocery Store, Site Plan, Case No. ZS-2017-09;
Forest Conservation Ordinance – Variance Request, Forest Conservation Plan,
Case No. FC-2017-02.

Staff Report: (The staff memo is in the meeting file.) This is an application for two variances from the requirements of the Forest Conservation Ordinance. A sketch plan was approved previously for a 35,962 square-foot grocery store on property that includes Hamilton Run (and associated floodplain) on the east side of the property.

Variance requests from the Forest Conservation Ordinance include:

- Article 7, Section F.3.c.(1) – removal of eight specimen trees due to the mass grading of the center part of the site to create a building pad for the development.
- Article 7, Section H.1.c.(1) – clearing and grading of a small area of land within 50 feet of Hamilton Run near where it passes under Dual Highway (which will be vegetated upon completion of the project).

The staff report included an analysis for the applicant’s request (beginning on pages 3 and 4). Staff concurred with the applicant’s variance requests given the slope and layout of the site and the stream buffer width requirements. If the applicant was required to preserve all of the trees and avoid grading into the buffer it would make this property difficult to develop for any sizeable use. Mr. Bockmiller pointed out that one of the trees in the State Highway Administration (SHA) right-of-way will need to be reviewed by SHA. Staff recommended approval.

Applicant/Commission Discussion: Joseph Eucifero and Emily Pate of Bohler Engineering, 901 Delaney Valley Road, Towson, Maryland, were present on behalf of the developer.

Mr. Wright stated that he would like to see an effort made to save trees noted as E and F on the applicant’s exhibit (meeting file). Mr. Eucifero addressed the overall plan. There are some forested areas on the site, including several specimen trees, and several trees that bound the property. This property contains significant grades and a stream. One of the driving factors to develop the site is the access location on the Dual Highway. SHA is dictating where the location of the access point will be. That entrance location will require that the grocery store building be situated on one side with parking on the other. If they have to follow the strict letter of the ordinance there will be very little developable area remaining.

The plan identifies nine specimen trees with eight of those proposed for removal. The tree furthest to the east will remain. An expert forester evaluated the trees and determined that five of the eight trees are in “poor” or “very poor” condition. After the eight trees are removed, a small section of the property would be graded. Mr. Eucifero reviewed the applicant’s arguments for variances to the requirements in the Forest Conservation Ordinance:

- Special conditions peculiar to the property – the stream, the access location dictated by SHA, the uniqueness of the property that was not caused by the developer, and the locations of the trees.
- How enforcement of the rules will deprive the applicant of rights commonly enjoyed by others in similar areas – property consists of over 7 acres but only a small area of the property could be developed without the variances.
- Granting of the variances will not confer on the applicant a special privilege that would be denied to other applicants; these situations are unique to this site.

- Not based on actions of the applicant – the age condition location of the trees and slope are specific to the site.
- Verify request is not related to building use on a neighboring property.
- Verify that request will not affect water quality – no wetlands on site and stormwater management measures that will be approved.

Mr. Eucifero stated that it is the applicant’s belief that these conditions have been met.

Mr. Wright was concerned about trees E and F since they are noted as in “good” condition. Mr. Eucifero stated that the trunk of E and the root zone extend into the area proposed for fill which will adversely affect the tree. The roots of the tree identified as “F” are in an area slated to be scraped which will also kill the tree. The tree expert states these trees need to be removed (documentation was submitted to support the expert’s opinion). Mr. Wright deferred to the judgment of the tree expert with regard to removal of trees E and F. Mr. Thomas wanted to make sure that the filled areas do not wash out. Staff indicated that erosion issues will be addressed with the site plan.

MOTION: (Stone/Campbell) I make a motion that we approve both variances. I think the applicant has demonstrated that these result primarily from the entrance location of the Dual Highway that was imposed by the state and to which there is nothing to be done, and particularly its relationship and proximity to Hamilton Run. I don’t think these are hardships that were created by the applicant or result from any other piece of land and, therefore, the hardship has been demonstrated in both cases.

DISCUSSION: Mr. Thomas wanted to make certain that the question of stabilization will be taken care of at the site plan stage.

ACTION: APPROVED (Unanimous)

Staff will prepare a decision and order addressing the individual standards.

531 Dual Highway – BAI Hagerstown (Lot 1), Final Plat, Case No. S-2017-05.

Staff Report: (Staff memo, which was read into the record, is included in the meeting file.) This is a final plat for the creation of a lot fronting Dual Highway for the pending Krispy Kreme bakery site plan. The bulk of the lot will be between the Burger King and the main entrance to the shopping center, with a tail that extends over to a five-foot frontage on South Cleveland Avenue for the purpose of providing access to the water line in that street. The lot is being created because the utilities typically only allow one water line per parcel. Since this construction is remote from the main building, the property owner chose to put Krispy Kreme on its own lot so it can be more efficiently accessed with a water line. Shared parking and access

agreements between the owner of the Burger King parcel and the shopping center owner are in place, and will be reflected on this plat. The site plan will be in front of the commission at its next meeting for approval.

The final plat was routed to all review agencies and all have provided full approval. Mr. Bockmiller noted that currently the Burger King is on a single commercial lot which was created many years ago. Variances have been granted by the Board of Zoning Appeals to facilitate this subdivision. Staff recommended approval of the plat.

Engineer/Commission Discussion: None.

MOTION: (Campbell/Stone) I'll move to approve the final plat for BAI Hagerstown to have its own lot.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

**Stone Ridge Apartments Parking Expansion – 1400 Haven Road, Site Plan,
Case No. ZS-2017-11.**

Staff Report: (Staff memo, which was read into the record, is included in the meeting file.) This site plan is for the construction of two new parking expansion areas for this apartment complex which is located at the western terminus of Haven Road. This issue was brought to the Planning Commission as a workshop earlier this year to discuss the conflict between the site's current shortage of parking spaces for tenants as well as what would be required by current ordinances if the apartment buildings were being constructed under the current ordinance, including the ordinance expectations for open space. At the workshop, the Planning Commission expressed support for the option of sacrificing existing open space within the development to meet current parking needs. The owner purchased the development in recent months and has been moving tenants out, investing in major renovations to units, and making the renovated units available at market rates.

Parking will be provided in two areas. In the portion of the development north of Haven Road, a 31-space parking lot will be located in the courtyard area that is the central focus of the buildings in that area. The parking lot will be constructed to current standards and landscaping will be installed in accordance with the requirements of the ordinance.

In the area to the south of Haven Road, two 8-space bays of parking will be installed on the loop driveway to the west of the cluster of buildings. The lot will be constructed to current standards and landscaping will be installed in accordance with the requirements of the ordinance.

As a result of this project there will be 47 additional parking spaces, bringing the total number of spaces from 159 to 206 for this 105-unit development. Two hundred ten spaces would be required under the current ordinance. The area of disturbance is less than 40,000 square feet; therefore, compliance with the forest conservation ordinance is not required.

The site plan was routed for review and all agencies have approved it with the exception of the Water and Wastewater Divisions. Staff recommended approval, subject to meeting the Water and Wastewater Divisions' conditions that may be required associated with the easement language needed for utilities.

Engineer/Commission Discussion: Stephen Cvijanovich of Fox & Associates, Inc., engineers for the project, was present. There were no questions by the commission. Mr. Cvijanovich discussed the stormwater management system. The system shown is for quantity and quality. Mr. Wright asked if a note to that effect will be placed on the site plan. Mr. Bockmiller stated that he had no objection to a note on the site plan. Mr. Cvijanovich stated that he had no objection to putting a note on the site plan; however, when they get the stormwater management construction permit there will be an inspection and maintenance agreement that will give the City the right to inspect it. That instrument is recorded and would be a more appropriate document for the note. Mr. Bockmiller had not objection one way or the other.

Mr. Stone asked if there are existing stormwater management facilities on site. Mr. Cvijanovich explained that this site was developed many years ago. If there are any stormwater management features on site, they are well hidden. Currently it is strictly sheet flow into the wooded area. There is 14,000 square feet of impervious area which is not a huge generator of storm water.

MOTION: (Stone/Campbell) I'll make a motion we approve, subject to the outstanding Water and Wastewater comments.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Preliminary Consultation: Kensington Commercial Park (Champion Drive).

(See memo from Fox & Associates in the meeting file.) Stephen Cvijanovich of Fox & Associates was present. Kensington LLC is proposing to develop the property on Champion Drive north of the Bergman Eye Center. The current plan shows a 15-bay flex space, containing 22,500 square feet. Presently, there are no prospective tenants. The owner envisions a mix of uses, similar to The Centre at Antietam. The drive-thru that is shown could be a restaurant, a bank, a pharmacy, etc.

Mr. Cvijanovich has been working with the City Engineer’s office to get a left-turn northbound movement into the site. A traffic analysis/movement study has been submitted and both the City Engineer and Assistant City Engineer have approved in concept a southbound right in/right out and a northbound left turn into site.

Also proposed is a small freestanding building with 2,400 square feet of retail space. A parking analysis was included with the packet memo due to recent concerns about parking issues at Café del Sol in the West End. The sketch shows 140 parking spaces. They concluded that four out of the 15 bays could be restaurants, based on 50% back space. Mr. Cvijanovich wanted the commission to be aware that the parking calculations were based on both retail and restaurant uses.

Mr. Stone asked about the entrances. According to Mr. Cvijanovich, southbound traffic on Eastern Boulevard can turn into Diamond Drive and there is 150 feet of stacking. The proposal for this development would be similar to the Diamond Drive situation. The existing median would have to be cut out. There are potential conflicts with the former Food Lion building across Eastern Boulevard.

Staff wants to see a potential connection into the Banks property so that property has access to Champion Drive. Also, forest conservation has been problematic on the steep bank that separates Kensington Commercial from Kensington Residential. Mr. Bockmiller asked that the engineer look at planting fast-growing vertical trees. Mr. Cvijanovich noted vegetation on the Stanley Banks’ property.

Planning Commission members had no concerns about the proposed concept. Mr. Wright asked for sidewalk connections from the existing sidewalk to the new sidewalk.

Planning Commission Business:

2018 Meeting Schedule.

Commission members had no objections to the proposed meeting schedule, but it was pointed out that the commission will be meeting on both Valentine’s Day and Halloween.

- MOTION:** (Campbell/Thomas) I move to accept it.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

**Planning Commission
MINUTES – Regular Meeting**

**December 6, 2017
City of Hagerstown, Maryland**

Comprehensive Plan Update – Recommendation to Mayor and Council.

Ms. Maher distributed copies of the finalized draft Comprehensive Plan. The changes will be sent to the Maryland Department of Planning on December 7.

MOTION: (Stone/Campbell) I move that we recommend this Comprehensive Plan update to the Mayor and Council.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - Corderman)

2017 Text Amendment Package – Begin Section 4.

Due to the late hour, this item will be discussed at the next meeting.

Adjourn. It was moved and seconded that the meeting adjourn (9:15 p.m.)

2/28/2018

Approved



Debra C. Calhoun - Secretary