

**Planning Commission
MINUTES – Regular Meeting**

**October 31, 2018
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, opened the meeting at 7:00 p.m., on Wednesday, October 31, 2018, in the Conference Room, Fourth Floor, City Hall. Also present were commission members S. McIntire, J. Stone, 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; M. Flick, Planner; and D. Calhoun, Secretary. **(NOTE: Planning Commission revisions are indicated in red text.)**

REGULAR MEETING

Roll Call.

Mr. Wright noted that all the regular commission members and the ex officio member were present.

Approval of Minutes:

September 26, 2018 – Regular Meeting.

MOTION: (Wheeler/Thomas) I'll move approval of the minutes.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

October 10, 2018 – Workshop Meeting.

MOTION: (McIntire/Thomas) I'll make a motion to approve the October 10, 2018, minutes.

DISCUSSION: Mr. Thomas noted an error on page 1 (second line under "Staff Report" should be "a" not "at"); and on page 5, Ms. Wheeler noted an incorrect name under the Land Management Code discussion ("Dante" should be "Devonte"). Ms. McIntire and Mr. Thomas accepted the corrections.

ACTION: APPROVED AS AMENDED (ABSTAIN - Wright)

Development Review:

Quit Claim Request: Portion of Alley 5-35 (between 4 West Magnolia Avenue and 1301 Potomac Avenue).

Staff Report: (Memo from the Assistant City Engineer is in the meeting file.) Jim Bender, Assistant City Engineer was present on behalf of the Parks and Engineering Department. The City of Hagerstown received a quit claim request for a portion of Alley 5-35 which is located between a residential dwelling and the former Allegheny Electronics building at 1301 Potomac Avenue. The current owner of 1301 Potomac Avenue (Dr. Eklund) wishes to convert the building into a dental office and would like to make drainage improvements on the western end of the building. Given the proximity of the alley right-of-way to the building, there is limited space to make improvements.

The alley in question is a horseshoe-shaped unimproved alley that connects to West Magnolia at two locations. The portion of the alley to be quit claimed is bordered by three properties (4 West Magnolia Avenue and 1307 and 1345 Potomac Avenue). The parties involved have agreed to the quit claim and to the proposed division of the right-of-way after the quit claim: Dr. Eklund will receive the southern portion, Mr. Hill (4 West Magnolia Avenue) will receive the northern portion, and First Christian Church (Potomac Avenue) will give up its claim to the right-of-way to Mr. Hill.

The request has been routed to City departments to determine whether there are any concerns with the quit claim request. The Hagerstown Light Department has no objections but is requesting an easement be preserved for access to maintain their facilities. Planning raised a concern that quit claiming the right-of-way would cut off access to the rear of the property owned by Mr. Hill. Even though the alley is unimproved, cars use the right-of-way as a driveway to the rear of 4 West Magnolia Avenue. The agreement between the parties states that all three of the parties will retain the right to use the right-of-way. The Assistant City Engineer recommended that the quit claim ordinance include a joint access easement to formally establish these rights.

Mr. Bockmiller stated that he was approached by Dr. Eklund and pointed out to him that the alley right-of-way is not part of the approved Local Conversion District Overlay; therefore, no uses subject to or related to the overlay (i.e., lunch tables) could occur in this part of the property. The alley is not part of the zoning overlay. All of the business uses need to be on Dr. Eklund's property covered by the Local Conversion District Overlay.

Commission/Applicant Discussion: Mr. Stone wanted to make sure that the specific terms of the access agreement are worked out to the convenience of all parties. Mr. Bender stated that the Light Department needs to be able to access their power lines the entire length of the alley. That

will necessitate the area to be quit claimed be left open to allow trucks to pass. Mr. Wright had concerns about how the alley bed will be treated. Mr. Bender indicated that was not discussed with the affected parties. Since this portion of the alley will be quit claimed to Dr. Eklund it could be placed on the site plan but not as part of the area covered by the Local Conversion District Overlay. Mr. Stone was not in favor of requiring improvements in the alley bed because it is a semi-pervious surface now. Ms. Maher pointed out that it appears the alley had been improved with two cement “tracks,” however, over time the tracks appear to have deteriorated.

Adam Hager of Frederick, Seibert & Associates, the site plan engineer, was present. Mr. Hager stated that Dr. Eklund will be using part of the building for surgical suites. There is an existing mold issue so the alley will be excavated to below grade to eliminate the mold issue. On the back side they are proposing ~~the~~ to lower grade with a retaining wall. An existing stone wall will be replaced with another retaining wall. The whole area is proposed to be excavated out to below finished grade of the commercial building. There is six feet of elevation change from the finished floor of the building up to the top of the grade. The idea was that on the First Christian Church side to install a sidewalk on the back side with a retaining wall against the church parking lot. Mr. Hager expected the same treatment on the residential side. Once you get back to the corner that would no longer be Dr. Eklund’s property, stairs would be built to allow access to the church parking lot. Mr. Stone noted that the intent of the quit claim agreement is to still have vehicle access to the rear yard. Mr. Hager noted that people would be able to walk to the back of Mr. Hill’s property but they would not be able to drive back there.

Mr. Hager stated that as far as access to the back, they may have to talk to First Christian Church which has an access easement through the church parking lot to get to the back of their property. Mr. Stone felt that the intent of the agreement was to provide the same kind of access to the rear of the lot that is there now (he noted a car parked in the back yard of the Hill property). Mr. Hager stated tonight was the first time he heard about the need for vehicle access along the alley. Mr. Stone said it does not mention “vehicle access” but given that the owner of Mr. Hill’s property has used the alley for access to the back of the property, they most likely are assuming that they will continue to have the same access as they do now. Mr. Bender stated that the Light Department will need the ability to access their poles for maintenance.

Mr. Stone wanted to review the access agreement to see what the parties agreed to. If that cannot be worked out then there is no point in granting the quit claim. Mr. Hager stated that conversations about whether Mr. Hill’s property would have permission to access the back portion of the yard through the church parking lot took place after he had last spoken to them. Mr. Hager noted that City Light’s pole behind the Eklund building will be moved toward East Magnolia Avenue so accessing that pole will not be an issue.

Due to the number of unanswered questions, Mr. Wright recommended tabling this matter until the issues are worked out to the satisfaction of all parties. However, Mr. Wright did not believe

there would be any concerns about dividing the alley as proposed (north and south vs. east and west).

MOTION: (Stone/Thomas) I make a motion that we table this matter until our next meeting or until the parties can get back to us for some idea on how the parties plan to do the mutual access.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

758 Bowman Avenue (Lot H) – Antraquip Corporation – Final Plat, Case No. S-2018-13.

Staff Report: (The staff report is in the meeting file.) This is a plat for the proposed combination of two lots into one for the planned expansion of Antraquip Corporation. It will result in one lot totaling 5.062 acres. The front building restriction lines on Eldridge Drive and Bowman Avenue have been adjusted to reflect two variances granted by the Board of Zoning Appeals to permit construction of two new buildings 25 feet from the rights-of-way of those two streets.

This plat was routed for review and all agencies have approved the final plat and all agency comments have been addressed. Staff recommended approval.

Commission/Applicant Discussion: Mr. Wright asked if the equipment and material stored on the gravel area in the northeast corner will be cleaned up as part of this development. Mr. Bockmiller noted that the proposed site plan does not show this area as material storage. He stated that he will look into this issue.

MOTION: (Stone/Wheeler) I'll make a motion that we approve the subdivision plat.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Washington County Board of County Commissioners – 117 West Franklin Street – Employee Parking Lot, Site Plan and Waiver Request, Case No. ZS-2018-07.

Staff Report: (The staff report is in the meeting file.) The purpose of this site plan is to construct a new 30-space parking lot on the site of the former T&R Tire Center on the south side of West Franklin Street. The drive flow will be one way in-bound from West Franklin Street with an exit onto the rear alley. An ornamental fence will be installed along the west property line. An ornamental metal fence with brick pillars is proposed for the West Franklin Street frontage. In addition the front 40 feet of the site will be landscaped.

The applicant requested three waivers to the design requirements, including:

- Reduction of the required ten-foot landscaped buffer from the west side property line to seven feet (this area is adjacent to the County’s bus transfer station).
- Elimination of the requirement for a landscaped island on the south end of the east bay of parking (adjacent to the alley). The applicant is requesting this waiver in order to pull vehicles onto that area as needed. There has been discussions about a potential amendment to the site plan for a pedestrian walkway, but that is not part of this plan.
- Elimination of the ordinance requirement for two street trees on West Franklin Street due to the location of underground electric utilities.

Given that the front and east side landscaped areas will significantly exceed ordinance requirements, staff had no objection to these requests. Staff also pointed out that a portion of this site is in the Downtown Local Historic District. The Historic District Commission approved the improvements located within the historic district on October 25. Staff added that the layout was designed per guidance from the Hagerstown Police Department in accordance with CPTED design principles. As a result of those concerns there is no tree on the corner which addressed some of the Police Department’s concerns.

The site plan was routed for review and all agencies have approved it with the exception of the Planning and Code Administration Department which had three minor corrections.

The old gas station site will be transferred to an adjacent property owner; part of that is to widen Wareham Alley to two full lanes the entire block. The possibility of a walkway from West Franklin Street to Wareham Alley is still being considered and could become part of an amended site plan.

Commission/Applicant Discussion: The lighting plan is part of the site plan and the photometrics indicate that site lighting will be adequate as shown. Mr. Bockmiller checked the property lines which run against adjacent buildings. There are no doors on the backs of the buildings that front on Jonathan Street so a walkway would not be required. The existing recorded plat has been embedded into the site plan.

- MOTION:** (McIntire/Thomas) I’ll make a motion to approve the site plan and the three waivers listed in the memo and subject to the Planning Staff conditions.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

Workshop: Former Sheetz – Corner of Potomac and Fairground Avenues.

Staff Report: (The staff report is in the meeting file.) Staff received a minor site plan to add a gas canopy and three fuel pumps at the former Sheetz site at Potomac Avenue and Fairground Avenue. The property is in a CG (Commercial General) zoning district but is proposed for N-MU zoning. The developer began processing this plan upon learning that the impending rezoning of that area to N-MU would preclude gasoline sales. Staff noted that it is their right to move forward to try to get ahead of the rezoning.

When Sheetz was operating out of this location they maintained two fuel islands (four pumps); the current applicant is proposing three islands (six pumps).

Given the nature of this site, any reuse or redevelopment of the front area should be expected to involve some design waivers. In this instance several waivers will be necessary. Staff recommended that the applicant meet with the Planning Commission in a workshop to get the commission's feedback on its willingness to entertain design waivers for the purpose of redevelopment that would permit the gas canopy and pumps. Strict compliance with the ordinance would make the addition of gas pumps all but impossible.

Staff had no objection to a majority of the requested waivers; but has concerns about two issues:

- It appears the two-way drive aisle between the easternmost pump island and the parking that fronts the building will be 21 feet which is less than the required 24 feet. Choking down traffic flow through this area and the increased risk of cars backing out of parking spaces and into vehicles actively refueling is not advisable.
- Currently the only buffering along the northern property line is a chain link fence with slats. It would seem that retrofitting any landscaped buffer along this property line is impractical. However, buffers can be proposed to be treated alternatively with fencing or similar man-made visual barriers. For the redevelopment of this site, if the Planning Commission is amenable to waivers associated with the landscaped buffer, staff recommended requiring that fencing or a masonry wall be required that is structurally very durable given the intended use and circumstances and of sufficient aesthetic appearance to be an improvement in the redevelopment of the site and the appearance of the new use and its impact on the properties nearby.

The developer is showing 11 parking spaces which just meet the ordinance requirement for parking. Staff recommended against granting parking variances for the purpose of creating gas pump islands at the expense of parking for the business.

Mr. Bockmiller pointed out that there is a new landscaped island on the northern side of the site and an existing asphalt area will be landscaped.

Commission/Developer Discussion: Adam Hager with Frederick, Seibert & Associates told the commission that time is of the essence with this project in that they have until mid-January 2019 to be substantially under construction. Concerning the fuel islands, his client has a stipulation with the franchise that he needs to have three islands (six pumps). With regard to the staff comments, they have been able to meet that and Mr. Hager's client is agreeable to constructing a brick wall on the north property line. The dumpster enclosure will be masonry to match the existing building. The Fire Marshal does not want the dumpster located too close to the building so it will be moved back to where it was originally. The City Engineer is requiring that the enclosure meet current city standards for dumpsters. Their intent is to have only one dumpster rather than two so the enclosure will not be as wide. The franchise is a smaller and does not have the number of food choices that Sheetz offered. The store will close at 10:00 p.m. to avoid the problems Sheetz had with their 24-hour operation. Concerning traffic flow on the site, they believe it will work based on their models.

Mr. Bockmiller stated that this neighborhood is more residential in nature so the signage needs to be kept under control. Mr. Hager stated that his clients want to use the existing sign poles. Staff stated that a sign of that size is not warranted in this area. Several Planning Commission members agreed with staff and would rather see a lower monument sign (eight feet tall). Mr. Stone cautioned against creating too many obstacles that will dissuade the business from locating here. Many people in the neighborhood may want a fueling option in the area. Mr. Bockmiller stated that the sign posts should have been removed when the sign face was taken down.

Concerning two fuel islands vs. three fuel islands, Mr. Hager stated that the third fuel island would allow customers to get their gas quicker since there would be two additional pumps available. Eliminating a fuel island kills the project. Ms. McIntire questioned whether there would be sufficient site lighting. It was noted that the island canopy will be illuminated. Staff stated that lighting of the site will need to be reviewed closely because of the adjacent residences. In addition, the commission must consider the character and the surroundings in that waivers for this site are expected. If the waivers are granted, the two places to concentrate on are the signage and the masonry wall.

Mr. Hager stated that based on the City Engineering comments the aprons will be replaced and handicapped ramps will be built to current ADA standards. He was concerned about the City Engineer's comments about a raised edge or curb on the south side of the building where mulch is proposed. Mr. Bockmiller suggested using grass instead of mulch in this area.

Commission members were inclined to allow the project to move forward with reasonable waivers. Mr. Wright noted that two of the major complaints in the neighborhood with the former Sheetz were the trash and the foot traffic at all hours. He was glad to hear the new business plans

to close at 10:00 p.m. and will not offer a full array of food items. Mr. Thomas asked about fuel deliveries. Mr. Hager stated that deliveries could be scheduled for off-peak hours.

According to the City Attorney, in order for the project to be vested or grandfathered before the new zoning takes effect the developer needs to have an approved site plan, building permits, and the project must be substantially under construction in order to still squeeze it in as a CG (Commercial General) use.

**702 West Washington Street – Alex Kreyn – Extension of Local Conversion District,
Case No. ZM-2015-01.**

Staff Report: (The staff report is in the meeting file.) The Mayor and Council approved a local conversion district for this property located at the corner of West Washington and Winter Streets. The local conversion district went into effect on February 25, 2016. Work has been progressing slowly at this site. The ordinance requires that work begin within one year of approval and the use must be occupied within two years. While work did begin, occupancy has not been achieved. The applicant is seeking an extension of these time requirements, which the ordinance permits the Planning Commission to approve.

Staff recommended approval of an extension to be effective for the period of February 25, 2018 to February 25, 2020.

Commission/Developer Discussion: Mr. Wright corrected the staff report stating that the end date needs to be changed to February 24, 2020. It was also noted that this is Mr. Kreyn's first extension request.

MOTION: (Stone/McIntire) I make a motion that we grant the extension from February 25, 2018, to February 24, 2020.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Planning Commission Business:

By-laws Review.

The chair requested that staff forward copies of the commission's by-laws to members to review. He would like this placed on the agenda after the two new members have been appointed. Some of the rules need to be reconsidered and discussed for possible changes. Ms. Maher noted that the

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Mayor will be discussing at least one potential new commission member during an Executive Session on November 6.

Adjourn. It was moved and seconded that the meeting adjourn (8:25 p.m.)

11/14/2018

Approved



Debra C. Calhoun - Secretary