

**Planning Commission
MINUTES – Regular Meeting**

**May 8, 2019
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, opened the meeting at 3:58 p.m., on Wednesday, May 8, 2019, in the Conference Room, Fourth Floor, City Hall. Also present were commission members S. McIntire, C. Ploscaru, J. Stone, R. Thomas, and J. Wheeler. 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.

REGULAR MEETING

Roll Call.

Commission member C. Davis was absent.

Approval of Minutes:

April 24, 2019.

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

Development Review:

Washington County Board of County Commissioners – 37 Jonathan Street – Parking Lot, Site Plan, Case No. ZS-2019-02.

Staff Report: (Staff report is in meeting file) This is the final stage of the multi-party land swap and parking lot improvements behind the County Office Building on West Washington Street. This parking area, located north of Wareham Alley, is to be improved by the County and will become parking for the adjacent four-story building which is currently unoccupied. This site is located north of Wareham Alley, between Jonathan Street and the new County employee parking lot that is accessed via West Franklin Street.

Eleven parking spaces will be provided. Since this is an existing building in the CC-MU (City Center-Mixed Use) district, no new parking is required. A ten-foot landscaping edge will be adjacent to Jonathan Street, but not the building, alley, or rear property line. The rear portion of the site will be a service drive for trucks that may service a future use of the building. The alley

will be widened to create a uniform width the entire distance between Jonathan Street and North Prospect Street.

All review agencies have provided approvals. The City Engineer had a concern about one of the parking spaces and its proximity to other spaces.

Staff recommended approval. Concerning site lighting, there is a considerable amount of spillover lighting from adjacent properties and the street lights. There are two cobra heads immediately adjacent to the site on Jonathan Street and several ornamental street lamps in addition to the lighting from the County Office Building.

Applicant/Commission Discussion: John Van Riper from the Washington County Engineering Department was present. Mr. Wright had questions about the concrete section on Wareham Alley and whether the sidewalk could be extended through the landscaping bed to give pedestrians access to a safe place to walk. Mr. Van Riper noted that there is sidewalk on the other side of the alley which addressed Mr. Wright’s concerns.

MOTION: (Stone/McIntire) Motion to approve.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

**Malik Mehboob – 700 Potomac Avenue, Site Improvements, Site Plan,
Case No. SA-2018-11.**

Staff Report: (Planning Staff entered the staff report into the record and did not read it verbatim.) The subject property has an existing commercial building located on the east side of the site. The property was formerly used as a Sheetz convenience store with a two-island fueling station which included four fuel pumps and a canopy. Sheetz closed this facility and removed the gas tanks, pump island, and canopy. In accordance with City requirements, the signage for the Sheetz operation was removed, however, two vertical metal posts that were part of the sign remained. Per code these should have been removed.

This area is recommended in the Comprehensive Plan for rezoning to mixed-use development, and currently this property is part of the City’s upcoming comprehensive rezoning in which this property is recommended to be rezoned from CG (Commercial General) to N-MU (Neighborhood Mixed Use). It is anticipated that this rezoning will be complete by the end of 2019. The N-MU zoning district does not permit gasoline sales.

The applicant discussed his plans with the commission in a workshop in October 2018. In order to meet the requirements of franchise providers, the applicant stated that they will need three

islands (one more than Sheetz operated) containing six pumps, and they will need various waivers to buffer and landscaping requirements. Since this is a site redevelopment, current standards apply (unless reduced or waived by the Planning Commission via a waiver application). Staff expressed concern with the proposed buffering on the north side of the property since little to no landscaped edge would be provided along this property line (see staff report for excerpt from October 31 staff report). At that time, it was the consensus of the commission that reasonable waivers could be approved, but a freestanding sign should be no more than eight feet tall.

With this minor site plan, the applicant proposes to construct the gas canopy and three pump islands, including six pumps, in the southwestern corner of the property closest to the intersection of Fairground Avenue and Potomac Avenue. Eleven parking spaces will be provided for the operation which meets code requirements. Landscaping will be installed between the building and Fairground Avenue. A vinyl fence and vinyl trash enclosure will be located along the northern side lot line. The area on the west side of the trash enclosure will be landscaped, as will the area between the building and trash enclosure. A landscaped island will be located between the bay of parking and Potomac Avenue.

Regarding freestanding signage, the applicant proposes to reuse the existing poles to install a 96-square-foot interior illuminated sign (Code limit is 100 square feet). No specific height of the sign is shown in the plans, but there appears to be approximately eight feet of clearance under the sign, meaning that the overall height will be a little over 20 feet tall. While a franchise has not yet been selected, they show a British Petroleum (BP) branding on the sign shown on the site plan, which is dominated by a white background.

The minor site plan was routed for comments to the review agencies, and all have approved the plan with the exception of the City Engineer and the Planning and Code Administration Department.

The Comprehensive Plan identifies this area as unsuitable for uses such as gasoline service stations, and proposes this area to be re-designated to a mixed-use zoning district. There are numerous dwellings located in all four directions from this site. However, the applicant is entitled to avail himself of the current CG zoning designation until such time as that zoning designation is officially changed, through strict compliance with applicable Ordinances or an approval that may include design waivers the Planning Commission may approve.

The City Attorney has advised that in order to be “vested” when the zoning changes, the following must have occurred by the time the zoning map changes take effect: 1) physical commencement of significant and visible construction; 2) commencement must be undertaken in good faith (with an intent to continue with construction and carry it through to completion; and 3) construction must be pursuant to a validly approved site plan and validly issued building

permit. This site plan has been received by staff under the current zoning in place and staff is processing it as required.

If the applicant moves forward and vests rights in development of this site for gasoline sales, that portion of the use will become a legal nonconforming use, subject to all the limitations and procedural requirements found in the Zoning Ordinance for nonconforming uses when the map amendments take effect.

This site is generally viewed as having been a “problem site” by the neighborhood due to the amount of traffic the former convenience store and two-island fueling facility generated and the layout of the site. This proposal increases the number of gas pumps on the site by 50% over those previously maintained by Sheetz. Neighborhood complaints about trash and crime allegedly spawned by the prior operation were regularly received by staff. However, staff also noted that most of the complaints dealt with the convenience store. A convenience store is a permitted use in both the N-MU and in the CG zoning districts, therefore, the pending rezoning of the property does not impact that issue. Staff noted that the developer could reopen the building as a convenience store tomorrow.

Dwellings are located on both sides of Fairgrounds Avenue in this area. The building to the north at 714 Potomac Avenue has offices on the first floor and a dwelling unit on the second floor. Other than “Bills Other Yard Sale,” the buildings across Potomac Avenue are residential in nature and if they do not contain dwellings at this time it is reasonable to expect they will be converted for residential use once the map amendments go into effect.

The freestanding sign proposed is inconsistent with the guidance provided by the Planning Commission in October of 2018. Staff supported the commission’s prior guidance that the existing sign should be a monument sign. Since the site is not on a main highway or competing with other gas stations in the immediate vicinity, there is no need for a tall sign at this location. All traffic is local and will pass this site at a low rate of speed. The site is surrounded by residential or potential residential uses. The proposed 8 x 8-foot predominantly white sign will be at second floor bedroom window level to the surrounding homes.

Staff did not believe the vinyl fence proposed along the northern side property line addresses concerns raised in the staff report provided for the workshop. There will be no landscaping along this property line, and the fence will be immediately adjacent to parking. Staff believed this fence will be subject to accidents, abuse, and other influences that will cause it to deteriorate in appearance quickly. Staff recommended that a masonry wall six or eight feet in height be constructed along the northern side property line between the building and the Potomac Avenue right-of-way, transitioning down to three feet within the required front yard setback along Potomac Avenue (to take the place of 10-foot landscaping). A three-foot tall ornamental metal fence should be installed around the landscaping between the building and Fairground Avenue so

that that area will not become a “dog toilet.” Staff would have no objection to similar fencing being installed around the landscaping along Potomac Avenue.

The three current wall packs on the building aggressively illuminate the entire area at night, including the dwellings across the street. (A photograph of this condition is in the staff report in the meeting file on page 4). The site plan calls for new shielded wall packs or installation of shields on the existing wall packs to address this issue. If BP is the franchise at this site, the 8 x 8-foot, mostly white back-lit sign would also contribute to this overlighting condition.

As this is a redevelopment site, the new work is subject to all current design requirements, with the possibility of waivers granted by the Planning Commission. The Ordinance would require a ten-foot landscaping edge along Fairground Avenue, Potomac Avenue, the northern side property line; landscaped islands at least eight feet wide at the ends of parking bays; and other requirements. The applicant processed this site plan with a proposed alternative landscaping plan, relying mostly on retrofitting around the edges of the existing conditions. There will be a vinyl fence and vinyl trash enclosure along the northern side property line and no landscaping where the ordinance requires ten feet for any new parking use (regardless of whether it is a store, bank, office, etc.). To the degree site conditions allow, the proposed plan does retrofit landscaping into all possible locations.

Staff advised that given the waivers requested and the potential impact of this use on surrounding properties, the Planning Commission is well within its authority to place conditions of approval on this plan. Staff recommended approval of the site plan as long as the following conditions are placed on the approval:

- There shall be no more than one freestanding sign, no taller than ten feet above grade, on a stone or brick base. If the sign is greater than 36 square feet, it shall not be internally illuminated and illumination shall be limited to units at the top of the sign directing the illumination down upon the surface of the sign.
- A masonry wall, constructed of brick, split-faced block or similar masonry products designed to be aesthetically appealing in appearance, shall be constructed along the northern side property line between the building and Potomac Avenue, including the trash enclosure. The wall shall be between six and eight feet in height, except within the 15-foot front setback along Potomac Avenue, within which the wall will be 36 inches in height.
- A durable, ornamental metal fence, three feet in height, of a design and material suitable to the Zoning Administrator, shall be installed around the landscaping that will be installed between the building and Fairground Avenue.

- Before the zoning map amendment that will change the zoning of this property takes effect, the following shall have occurred: 1) physical a validly issued building permit.

Staff provided photo examples of gas sales signs that could be permitted. Masonry could have gooseneck lighting or a hood with lighting. The canopy will advertise the fact that there is gas sales at this location.

Applicant/Commission Discussion: Adam Hager of Frederick, Seibert & Associates, Inc., engineers for the project, and the developers, Malik Mehboob and Bashir Ranjha, were present. Mr. Hager said the street lights in the area are about the same height as the proposed sign. Based on their photometric plan, once the building mounted lights and the canopy are replaced, the light cast from this site will be dimmer. He contended that the street lights will contribute more light than the proposed sign.

Commission members recalled that they spent a considerable amount of time at the workshop discussing the importance of a quality masonry wall on the north side of the property and the sign. Mr. Hager stated that since the workshop, cost estimates for the masonry wall came in more expensive than anticipated and that affected the developers' budget for the project. They decided to explore alternate types of screening that was functionally similar and less costly. Commission members concurred that the proposed vinyl fence is not equal to a masonry wall. Commission members discussed the significant grade difference between the back yard of the adjacent property to the north and the convenience store parking lot and landscaping in this area. Mr. Bockmiller pointed out that the fence is being proposed as an alternative to the landscaping requirement for a ten-foot of landscaped buffer. Commission members stated that it made a big concession by allowing six fuel pumps and did not believe the developer's plan is adequate. Concerning the developer's plan to re-use the former Sheetz sign poles, commission members supported staff's recommendation that the poles be removed and requiring a monument sign in its place.

Developers' Presentation: Mr. Mehboob, developer, outlined his development history in Hagerstown, including the Checkers building on the Dual Highway. With this project he is trying to facilitate the development for a friend. After the workshop, they determined that the brick wall was going to cost too much, including the canopy and the fuel tanks. At this point the gas station market became competitive. They believed that they would not be able to earn back their investment in a reasonable amount of time. Concerning the sign, they saw that as grandfathered. The developers have no issue with using a monument sign; however, they are concerned with the potential for vandalism with the lower sign. Mr. Mehboob agreed that the existing fence is not attractive and they are willing to remove it, but were hoping for a less expensive alternative.

Based on the discussion, the developers withdrew their application for site plan approval and will return with revisions. Mr. Wright noted that prior to 1911, this property was the site of the City's first hospital.

Consultation for Replat of Five Lots at Hager's Crossing.

Staff Report: (Staff report is in meeting file) Mr. Bockmiller informed the commission that he received an inquiry from David Trostle of Frederick, Seibert & Associates to explore the possibility of replatting five lots on Gemstone Court to make them ten feet deeper so they can meet setbacks. The property behind these lots is a platted forest conservation easement. Staff requested guidance from the commission on how to proceed. The ordinance discourages the use of thin strips of forest conservation easements on private properties. The Planning Commission can still approve them. Nothing will change on the ground and easements would stay in place. Another option would be to replat the lots and remove the easement areas completely resulting in a loss of 3,200 square feet. Mr. Bockmiller noted that they exceed the forest conservation ordinance requirements in this area, although staff will require the engineer to back up his assertion with computations.

Commission members were inclined to allow the developer to remove the forest conservation easement from these five lots; however, they wanted to make certain this would only be a one-time request. Staff noted that there is a different developer and they are using a different model type from the original developer which is why the houses do not meet setbacks. Mr. Bockmiller will verify that this will be a one-time request for these five lots only.

Planning Commission Business:

Comprehensive Rezoning.

(See meeting file for the associated tables and maps.)

South End Shopping Center. The shopping center is zoned CG; there is a request to rezone the southern portion to IG (Industrial General) which would be added to the lands of Great Southern Wood. There will be no landscaped buffer on the shopping center property. When Great Southern Wood comes in with a site plan for their truck storage proposal, there will be a landscaped buffer along the property line with shopping center. The rezoning proposal would include Great Southern Wood's pipe stem driveway which is also zoned CG.

Jason Divelbiss, representing Great Southern Wood, indicated there are multiple pieces that need to fit before this will happen. Mr. Bockmiller added that they need to demonstrate that by taking

parking spaces away from the shopping center they will not reduce the number of shopping center parking spaces below the required number. Commission members had no concerns about this rezoning.

South Side Hebb and Emmert Roads (Lewis/Lyles Lands). Mr. Divelbiss stated that he represents Dave Lyles and they have concerns with this proposed rezoning. Currently Mr. Lyles has two interested buyers for multi-family uses, but they are still in negotiations. Mr. Lyles may be asking the Planning Commission to retain the RH (Residential-High Density) zoning.

East Baltimore Street/Corner Pub Parking Lot. The Planning Commission had no concerns with the parking lot being rezoned to N-MU.

Rear of Stone Soup and Eddie’s Tire. Planning Commission members had no concerns with this “map beautification” rezoning. It shifts the zoning line to the rear street rather than splitting the properties.

Hagerstown Industrial Park. The Comprehensive Plan shows this as industrial. Staff believed that the Hagerstown Industrial Park would be an acceptable development for IG uses. The current zoning is IR (Industrial Restricted). Allowing IG uses as well would allow more flexibility. The Hagerstown Business Park is zoned IG and it looks like an office park. Staff believed that the Hagerstown Industrial Park would be more appropriate for IG uses. Planning Commission members had no concerns about rezoning the Hagerstown Industrial Park to IG.

Institutional Zones. This is a list of properties that would be included in the new institutional zones, which is for all parks and schools that are zoned residentially. Staff has sent out letters to all affected property owners and no one has responded to those letters.

Announcements.

None.

Adjourn. It was moved and seconded that the meeting adjourn (5:33 p.m.)

5/29/2019

Approved



Debra C. Calhoun - Secretary