

**Planning Commission  
MINUTES – Regular Meeting**

**October 14, 2020  
City of Hagerstown, Maryland**

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Douglas S. Wright, Jr., chair, opened the meeting at 4:03 p.m., on Wednesday, October 14, 2020, in the Council Chamber, Second Floor, City Hall. Also present were commission members C. Davis (via Zoom), S. McIntire, 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. Ploscaru was absent.

### **Approval of Minutes:**

The September 30 and October 6 meeting minutes were not ready for approval.

### **Development Review:**

#### **Great Southern Wood – 1201 Maryland Avenue – Parking Lot/Trailer Storage Area, Minor Site Plan, Case No. SA-2020-07.**

Staff Report: (Copy of the staff report is in the meeting file.) This site plan is for the conversion of a former parking area associated with the South End Shopping Center to a trailer storage area for Great Southern Wood. No buildings or employee parking are proposed. This area was rezoned from CG (Commercial General) to IG (Industrial General) in the 2020 Comprehensive Rezoning. Since this is the redevelopment of impervious surface, the Forest Conservation Ordinance does not apply in this case.

The applicant proposes an alternate landscaping plan which would result in the area being fenced on three sides and most of the fourth side with an eight-foot tall wooden fence. A row of Emerald Arborvitae would be located outside of the fence, spaced one per every nine feet, along the Maryland Avenue right-of-way and along the common property line with the adjacent shopping center. On the side, the fence will extend back to the end of the parking bays adjacent to the drive aisle that runs across the front of that building. Nineteen and a half feet of landscaping (the trees and grass) will be provided between Maryland Avenue and the fence. A landscaped island of ten feet will be provided along the property line with the shopping center,

although the fence will be located along the back edge of this area. Approximately eight or nine feet of the landscaped island outside of the fence will be visible from the adjacent shopping center. The Ordinance calls for a 25-foot buffer in IG when adjacent to CG. This is addressed as part of the applicant’s alternate landscaping plan, compensating for the reduction in width with an eight-foot tall solid wood fence and a soldier row of evergreen trees.

The proposed site plan was routed for review, and all agencies have provided approvals, with the exception of the Planning and Code Administration Department and the City Engineer, each of which has one condition. The Planning and Code Administration Department is requiring that the sidewalk be installed per the ordinance requirements or that a waiver be submitted to the Planning Commission for approval. The City Engineer requested that a dimension be added to the fence detail to show the distance from the bottom of the fence boards to the ground surface to allow surface drainage to flow uninterrupted.

Staff recommended approval of the alternate landscaping plan and approval of the site plan, subject to the outstanding City Engineer and Planning and Code Administration Department comments.

Commission/Applicant Presentation: Adam Hager of Frederick, Seibert & Associates, Inc., engineers for the project, and R. Jeff Pearce of Great Southern Wood, were present. Because this property is in the same stretch of Maryland Avenue as another property where the commission indicated it was inclined to waive the sidewalk requirement due to topography issues, Mr. Thomas believed it would be consistent with that discussion to also consider waiving public sidewalks for this project. Staff noted that a waiver request is not part of the discussion at this time. Mr. Wright pointed out that on the drawing the new fence comes very close to but does not connect with an existing fence. Mr. Hager stated that the fences will be connected.

**MOTION:** (Stone/Davis) I make a motion that we approve the alternate landscaping and we also approve the site plan, subject to two conditions, one being the outstanding Engineering comment and the other being the condition either revising the site plan showing the sidewalk or ask this body for a waiver from the sidewalk requirement.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**Point Broadband – 205 Mill Street – Waiver Request (Sidewalk along East Baltimore Street), Minor Site Plan, Case No. SA-2020-05.**

The applicant was not present on Zoom. The commission moved on to the next item on the agenda.

**NorthPoint Development (Building 3) – 1050 Wesel Boulevard, Redline Revisions, Site Plan, Case No. ZS-2019-10 (Tentative).**

This item was removed from the agenda. Planning Commission members previously gave staff authority to approve the redline revisions administratively.

**Planning Commission Business:**

**Quitclaim Request: 352 Summit Avenue (West Memorial Boulevard and Surrey Avenue Right-of-Way).**

Jim Bender, Assistant City Engineer, presented this matter (copy of the staff report is in the meeting file). The owner of 352 Summit Avenue, Robert Bottger, contacted the City about a quitclaim to the triangular piece of land and an unimproved public alley that adjoins his property at the rear. The request also includes a private alley between Mr. Bottger's property and the City-owned properties. The ownership of the private alley is unclear. The quitclaim would negate any interest the City may have in the private alley.

City Departments were notified and no comments were received from any department except for the Wastewater Division. There is a sewer line in the unimproved public alley. The Wastewater Division had no objections to the quitclaim but is requiring reservation of an easement along the length of the sanitary sewer line. The Public Works Department is in favor of the quitclaim because it would release their crew from having to mow and maintain the triangle. It was pointed out that the front setbacks for both West Memorial Boulevard and Surrey Avenue completely overlap the property so they would not be able build on the property.

After reviewing the various responses from the departments, the City Engineer's office is proposing a favorable recommendation to the Mayor and City Council. The City would renounce any claims to the private alley. Mr. Thomas asked if the owner of 350 Summit Avenue had any concerns about the part of the private alley that borders their property. Mr. Bender stated that the City did not contact the owner of 350 Summit Avenue, however, Mr. Bottger has talked to that owner. It appears the owner of 350 Summit Avenue is not using the short section of private alley behind their house.

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

**DISCUSSION:** None.

**ACTION:** APPROVED (ABSTAIN - McIntire)

**Board of Zoning Appeals Agenda – October Hearing.**

People's Gospel Tabernacle of Hagerstown at 543 Security Road is requesting a special exception and a variance for an addition to their sanctuary. About a year ago, the church enlarged their parking lot onto an adjacent property and received a special exception to do that. At that time, the Planning Commission agreed to not pursue parking lot landscaping so the church could make use of the entire lot for parking.

Staff wanted to bring up the issue of the parking lot landscaping and whether the Planning Commission wanted to require landscaping at this time. There are edges where landscaping could be installed. This project would give the commission another opportunity to require that the site be brought up to current standards as much as possible. Mr. Bockmiller pointed out an 18 x 18-foot section in the southeast corner of the property. Currently the lot is completely paved.

Commission members were not interested in pursuing parking lot landscaping for this development since commission members had agreed to waive landscaping with the recent parking lot improvements.

**Point Broadband – 205 Mill Street – Waiver Request (Sidewalk along East Baltimore Street), Minor Site Plan, Case No. SA-2020-05.**

Gary Musciano was present via Zoom for Point Broadband.

Staff Report: (Copy of the staff report is in the meeting file.) The Planning Commission approved a site plan for a utility facility for a broadband provider at this location at a recent meeting. Since beginning construction, the developer discovered that installing a sidewalk on East Baltimore Street would involve more grading and filling than initially believed. The applicant has requested a waiver to the requirement for sidewalks since there is no sidewalk along other parts of the south frontage of this block. The existing condition is asphalt paving to the curb, and the asphalt has a significant slant toward the property and away from the street. The Mill Street sidewalk will remain.

Staff offered no recommendation on the waiver request. However, if the request is approved, staff advised that the existing asphalt should be removed and landscaping installed in the area to

the curb. The existing paving is unacceptable as a public sidewalk and should not remain. Asphalt is rarely used as a sidewalk paving material in City street rights-of-way. The end result should be either a new concrete sidewalk installed to current standards or no paving at all. There is no usable sidewalk on this side of this block of East Baltimore Street, most likely due to the topography of the area.

Commission/Applicant Presentation: Mr. Stone asked how far they would have to remove the sidewalk. Mr. Bockmiller stated that much of the asphalt would be pulled up for landscaping. Staff asked that the developer’s design professional provide a redline showing the changes.

**MOTION:** (McIntire/Thomas) I’ll make a motion to waive the requirement for the sidewalks with the condition of the existing asphalt being removed and landscaping being installed from there to the curb.

**DISCUSSION:** Mr. Musciano indicated that his client had no objections to the conditions. Mr. Bockmiller requested redline revisions showing the change for the file.

**ACTION:** APPROVED (Unanimous)

**2020 Land Management Code Package of Amendments – Part 2.**

The staff memorandum with details for each amendment are in the meeting file.

Administrative Section:

**Article 4, Section Z.** The outline format alternates between letters and numbers. The two charts in Section Z are lettered A and B. For consistency they need to be renumbered to 1 and 2. Commission members had no comments or concerns on this change.

**Article 7, Section H, Subsection 1.** The language in the Forest Conservation Ordinance that requires off-site mitigation to be applied at a 2:1 ratio is not worded clearly. The proposed amendment would restate this wording to make it clearer. The net result of the content will not change; however, the proposal will need to be reviewed by the Department of Natural Resources for consistency with state regulations. Commission members had no comments or concerns on this change.

**Article 4, Section O.** The parking requirement for a drive-in, walk-up restaurant was inadvertently left out of the last version of the Land Management Code. This amendment would put it back. The commission had no comments or concerns.

**Article 4, Section F, Subsection 2.b.** This amendment would make the terms “adult entertainment business” and “adult entertainment” consistent with the definition in Article 3.

Commission members had no concerns about making “adult entertainment business” the standard term.

*Article 5, Section C.* This amendment would clarify language about deadlines for Planning Commission review and approval. Commission members had no concerns.

Policy Section:

*Article 4, Section Z, (Indoor Plant Cultivation and Sports Betting).* This amendment proposes adding several uses to the CG zoning district: adult day-care with vocational centers, indoor plant cultivation and processing facilities, visual and performing arts studios, performing arts companies, medical and diagnostic laboratories, commercial and private membership outdoor swimming pools, and sports betting facilities. Concerning the indoor plant cultivation and processing, staff added this as an additional opportunity to adapt existing buildings in CG zoning districts. This use is not proposed for raw land, just in buildings in existence prior to 2020.

A developer with CG-zoned land asked that the commission consider adding recreational vehicle (RV) storage lots, small bay flex warehousing, self-storage mini-warehouse facilities, and construction and landscape contractors with storage yards to the list of permitted uses in CG. Staff did not believe these uses were appropriate for high-visibility commercial properties.

Commission members agreed with the staff’s assessment to not add RV storage lots, small-bay flex warehousing, self-storage mini-warehouses, and construction and landscape contractors with storage yards to the list of permitted uses in CG. Members also agreed that “indoor plant cultivation” should be removed. Sports betting can remain pending whether it becomes law. Staff will research this further.

*Article 4, Section O.* This proposal would lower the parking requirements for warehouse uses and clarify the means of calculating the area of a manufacturing use. In reviewing the City’s parking requirements for industrial sites, the City’s parking standards are higher than other jurisdictions for warehousing uses.

Commission members had no concerns with the change for the warehouse calculations from 1,500 square feet of gross floor space to 2,000 square feet. Mr. Wright asked for additional justification for changing the calculation for the office calculations from 350 square feet to 400 square feet of gross floor area. Mr. Stone indicated that whether or not the calculations for offices are changed they should be consistent for all office uses. Mr. Wright liked the use of the word “gross” and wanted that to be added to all square footage calculations.

*Article 4, Section Z (Breweries, Distilleries, Wineries) and Article 4, Section O (Off-Street Parking Pertaining to Breweries, Distilleries, Wineries).* The commission discussed this amendment at the last meeting which would include provisions for small-scale breweries,

distilleries, and wineries. These changes reflect the commission’s direction at the September 30 meeting. Mr. Wright asked that the word, “gross,” be worked into the language for the parking calculations. Based on the discussion on September 30 staff changed the criteria to redirect these uses more to the downtown area. Planning Commission members were okay with the changes made to the proposal based on the September 30 discussion.

**Article 4, Section K.1.b. (Fences).** This amendment would create an exemption to the requirement that side and rear yard fences comply with front yard fence limitations when the side street or street to the rear is a collector road or higher. This requirement will not apply if the adjoining collector or higher road is outside of the municipal boundary. Staff received a fence permit application for a privacy fence for a lot in Hager’s Crossing that backs up to McDade Road. McDade Road is outside of the City limits and the rear property line of the subject property is the municipal boundary. McDade Road is a collector road. Washington County has no comparable requirement so staff approved the fence. The proposed amendment would codify staff’s interpretation of the Ordinance. Staff noted that there are few other properties which would fall under this exemption. Staff believes that it serves no purpose to hold such situations to City standards when the adjoining street is not in the City and since Washington County has no comparable expectation. Commission members had no comments or concerns on this proposal.

**Article 5, Section I.4. (Depth of Asphalt).** This amendment adds a standard for paving thickness for parking lots and driveways. The proposal would require a pavement depth of at least three inches for asphalt and six inches for concrete. Commission members had no comments.

**Article 4, Section D.5. (Use of existing buildings on landlocked lots).** The proposed amendment would permit the reuse of existing buildings on lots in residential districts to be used for storage without complying with setback or design standards. This language is for clarification purposes. Mr. Stone recalled that a prior amendment discussed prohibitions against using garages for dwelling units.

**Article 4, Section D.2.c. (Large accessory use buildings).** This amendment adjusts recently adopted language regarding large accessory buildings on large lots. Now that the amendment has been applied in a “real world situation” staff is proposing a change that would limit use of the accessory building to residents of the property; the accessory building could not be rented out. Mr. Wright asked that the word “gross” be added (“Use of detached accessory residential garages of 900 square feet or less in gross floor area . . .”) Commission members had no additional comments on this proposed amendment.

Under this same section, Subsection 5.b., the commission advised that the special exception requirement for larger accessory structures should remain since it gives the neighborhood an opportunity to comment.

***Amendments Pertaining to Buffer Widths.*** Most references to the specifics of buffers are found in Article 5; this amendment would move all buffer requirements under the Planning Commission’s purview and not the Board of Zoning Appeals by moving them to Article 5 from Article 4. The Planning Commission is authorized to consider waivers on requirements found in Article 5. Planning Commission members had no concerns with this proposal.

***Article 4, Section A. (General Provisions).*** This proposed amendment updates references to comprehensive plans, and breaks one paragraph into three paragraphs and adds a fourth paragraph. Commission members had no concerns with this proposed amendment.

***Article 5, Section C. (Final Plat Approval).*** This proposal clarifies vague language concerning deadlines for Planning Commission review and approval. Also, references to “Subdivision Regulations” was deleted along with a paragraph that does not make sense. Planning Commission members had no comments on this proposal.

***Article 4, Section K. (Minimum Size of Dwelling Units).*** This amendment would codify an interpretation previously made by the Zoning Administrator that allows minor deviation to the minimum square-foot requirement for new dwelling units when retrofitting existing buildings. Staff sometimes needs flexibility when dealing with adding units to an existing building. This proposal codifies the practice already used. The new language would not apply to new construction. Commission members recommended ending the last sentence of the new language after “these standards.”

**Announcements.**

Mr. Wright asked that staff adopt and stick to a “drop dead date” for meeting packet materials being sent to commission members. Commission members need time to digest the material before the meeting. No new material should be sent to the commission after 5:00 p.m. on the Friday before a meeting.

**Adjourn.** It was moved and seconded that the meeting adjourn (5:50 p.m.)

11/4/2020  
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Approved

  
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Debra C. Calhoun – Secretary