

**Planning Commission
MINUTES – Regular Meeting**

**January 13, 2021
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, opened the meeting at 4:01 p.m., on Wednesday, January 13, 2021. This was a virtual meeting. Also participating via Zoom were C. Davis, S. McIntire, J. Stone, R. Thomas, and J. Wheeler. The following staff members were present at City Hall: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator; M. Flick, Planner; and D. Calhoun, Planning Commission Secretary.

REGULAR MEETING

Roll Call.

Commission member C. Ploscaru was absent.

Approval of Minutes:

October 6, 2020 – Special Meeting:

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

December 9, 2020:

MOTION: (Thomas/Stone) I make a motion to accept the minutes of December 9.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Development Review:

**Kilpatrick Woods – North Side Salem Avenue, Development Plan, Case No. P-2019-02;
Forest Conservation Plan, Case No. FC-2019-03.**

Staff Report: (Copy of the staff report is in the meeting file.) This proposal is for the development of a 66.13-acre lot into a 241-lot, single-family dwelling cluster subdivision. Improvements include several open space lots located throughout the development, stormwater management facilities, and a subdivision street network. Three access points are shown. The first will be from Salem Avenue, including a State Highway Administration-required signal. The

second will be through the existing developed street grid to the east via Connecticut Avenue; and a third will be on Marshall Street where right-of-way is being reserved for an intersection that will be retrofitted later into a traffic circle. This road, Admiral Fairfax Boulevard, will be the first segment of the Northwest Connector. Admiral Fairfax Boulevard will be built to collector street standards and no residential driveways will directly access it. While houses will face the road, the use of alleys and through lots will be employed to restrict driveway access to this road.

The houses on both sides of the western portion of Captain Fisher Drive will be designed with two fronts, so they will appear as fronts on Admiral Fairfax Boulevard and Marshall Street. This avoid creating a situation where Captain Fisher appears as a public street running between two rows of back yards.

Open space has been provided in excess of the required amount to meet open space requirements. Trails have been added throughout the development to make those spaces active recreation areas in addition to the open space lots and community center near the middle of the site. Staff provided the following data about the site:

Size of tract:	66.13 acres
Gross density proposed:	3.67 units per acre
Minimum lot size for a single-family home in a standard subdivision:	7,500 square feet
Average lot size:	5,657 square feet
Open space required (1,843 square feet x 241 lots):	10.19 acres
Open space provided:	15.19 acres
Community center:	3,300 square feet
Parking spaces required:	2 on lot per Zoning Ordinance, plus 1 per City Engineer
Parking spaces required:	2 on each lot, plus 1.4 per unit on street
Minimum setbacks:	Front – 5 feet Rear – 20 feet Sides – 4 feet with a minimum 10-foot total

This development is intended for workforce rental housing with the possibility of the rental units converting to some home ownership units in the future. Staff was concerned over the developer's use of the cluster subdivision provision, reducing the minimum average lot size to less than 5,700 square feet with one-story dwellings (no basements) planned for construction which have a much longer footprint than a two-story home. Staff noted that there is nothing in the Zoning Ordinance that would prohibit the use of the cluster subdivision provision but pointed out that

the combination of these factors will result in very closely spaced homes with minimal yard area and limited options for storage of personal belongings. Staff contended that this is a condition intentionally created by the developer; however, the developer and future lot owners must understand that this is not grounds later for variances for additions on homes or garden sheds larger than the modest pads set aside at the heads of each driveway allow. A note to this effect appears on page 2 and will be required to be on the plat.

Concerning the forest conservation plan, the numbers are as follows:

Tract area:	66.13 acres
Existing forest:	25.27 acres
Forest to be cleared:	20.59 acres
Forest to be retained:	4.51 acres
<i>Planting required:</i>	<i>26.23 acres</i>

The developer is proposing a compliance strategy as follows:

Street trees proposed:	410 street trees totaling 16.88 acres of canopy; includes trees along Marshall Street
Planting of forest on site:	5.71 acres, mostly along boundaries of development and to infill and expand retained forest areas.
Fee-in-lieu contribution:	3.64 acres
<i>Total planting:</i>	<i>26.23 acres</i> (Retained forest and plantings will total 30.74 acres)

Included with the staff report is a memo from the Board of Education regarding capacity demands generated by this development which was provided for informational purposes only. The City of Hagerstown has no Adequate Public Facilities Ordinance for schools in place at this time, and school capacity cannot be used as a justification for denial or delay of this plan.

The development plan was reviewed by the Plan Review Committee on January 14, 2020. All agencies have provided approvals, with the exception of the City Engineer who provided conditional approval. Final approval is pending from the State Highway Administration. The Planning staff approved the development plan with the following conditions:

- The developer must comply with the requirements of the State Highway Administration for improvements on Salem Avenue;
- The plan will be void if any of the three points of access into the development are not constructed, connected, and dedicated to the City; and
- Prior to submission of subdivision plats, the developer shall record homeowner’s association documents for architectural and use conditions on lots, and maintenance and

use of stormwater management areas and open space and recreation facilities, including assessments of owners for the payment of said maintenance and the management of the homeowner's association.

Trails have been provided and the developer and their engineer have tried to make the project a walkable community as much as possible. Staff discussed the various forested areas and the proposed planting areas. Mr. Bockmiller also discussed streetscapes and frontages along Admiral Fairfax and Captain Fisher which will both have dual frontages.

A letter was received from Mr. Manspeaker who owns the lot on Marshall Street asking for consideration by the commission of the use of his property and the proximity of the walking trail to his back yard. A majority of the items requested by Mr. Manspeaker can be accommodated, however, there is not enough room on the Kilpatrick Woods site to move the location of the walking trail at the southwest corner of Mr. Manspeaker's property. Staff noted that there are no buffer requirements in the ordinance for single-family development against existing single-family homes.

Commission/Applicant Discussion: Gordon Poffenberger of Fox & Associates, engineers for the project was present along with Tom Heinemann, Matt Summers, Avram Fechter, of AMS Construction. Concerning Mr. Manspeaker's concerns, Mr. Wright suggested planting trees on Manspeaker's western property at least to the garage. There is forest on all three sides which the developer is planting to help mitigate the impact of the development on Manspeaker's property. Mr. Poffenberger stated that the developer is agreeable to making the trees in the forest conservation area in this location evergreen trees with a different species at the property line. Staff noted that trees planted in the southwest corner could inhibit the walking trail.

Rodney Tissue, City Engineer, asked about the status of the public sidewalk along Marshall Street across the Manspeaker property. Mr. Poffenberger said Marshall Street will be widened for a bike lane and two travel lanes. A curb and sidewalk will be constructed on the Kilpatrick Woods property; Marshall Street will be widened approximately six feet; however, the right-of-way across Manspeaker's property will only accommodate the road widening and the curb. The sidewalk behind the curb will be on Mr. Manspeaker's property. This needs to be discussed with Mr. Manspeaker because otherwise there will be a gap in the sidewalk.

Ms. McIntire asked about the level of quality of the proposed homes. Mr. Heinemann stated they will meet all of Maryland's CDA built quality requirements; and they will meet all Fannie Mae, Freddie Mac requirements to qualify for a 30-year fixed-rate mortgage. The homes will be on permanent foundations. Each home will have steep roof pitches, solid wood cabinetry, drywall throughout, dormers over the side entrances, and varied architectural elements over the porches. They have four or five different models, colors, and finishes.

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Ms. Davis asked about the naming convention for the roads. Mr. Bockmiller was asked by the developers for suggestions. He came up with the theme of naming roads after prominent Washington County military veterans throughout history as follows:

Admiral Fairfax	Civil War Naval officer (Hagerstown)
Yeoman Berry	Last surviving female veteran of the U. S. Navy in World War I (Boonsboro)
Colonel Weld	Medal of Honor recipient (Sandy Hook)
Lieutenant Johnson	African American Air Corps officer who trained with Tuskegee Airmen (Hagerstown)
Captain Fisher	Veteran of Civil War, Nez Perce War, War with Spain, and World War I (Hagerstown)
Captain Russell	Commanded premier cavalry unit in Union Army in Civil War (Williamsport)

There was discussion about the condition that the plan is void if any of the three access points of the development are not constructed. After much discussion it was determined that this was not an issue due to the bonding requirements of the Engineering Department for road construction. Mr. Poffenberger noted that he was directed to prepare the plan with two phases of construction. Phase I would be bonded and include entrances from Salem and Rhode Island Avenues; stormwater ponds 2 and 3 would be constructed and half the site would be developed. Those lots would be platted at that time and the infrastructure would be bonded. Phase II would involve construction of the other half of the lots and construction of Admiral Fairfax out to Marshall Street. The City recently requested to take Admiral Fairfax Boulevard all the way to Marshall Street as part of Phase I. Mr. Poffenberger further clarified that Phase I would include the entrances off of Salem Avenue and Rhode Island Avenue. When those plats are approved there would be a bond for construction of those streets, however 95% of Admiral Fairfax will be constructed in Phase I. It was determined that the appropriate bonds would be in place for road construction in order to obtain building permits. Commission members were satisfied that the bonding process would be sufficient to protect the City from roads not being built. According to Mr. Poffenberger the developer was concerned that if Admiral Fairfax is punched all the way through to Marshall Street, they would like to work with the City on delaying the widening of Marshall Street, and associated curb and sidewalk, to Phase II. Staff and commission members had no objection to that.

Mr. Wright summarized the conditions that the commission may want to include in the motion for approval of this plan as follows: a homeowners' association agreement; compliance with any requirements of the State Highway Administration; a mutually agreeable provision of screening along the Manspeaker property, and satisfaction of the Engineering Department comments. Mr. Summers indicated that his development team is happy to provide screening but is uncomfortable with giving anyone authority to hold the project hostage. Mr. Bockmiller entered

into the record an email received from Mr. Burgess in June concerning landscaping issues on Salem Avenue. Mr. Poffenberger explained there will be landscaping on Admiral Fairfax which adjoins the Burgess property (page 10 on the landscaping detail). He met with the two adjoining property owners to that entrance and worked with them to alleviate their concerns. Rodney Tissue, City Engineer, added that the City will be quitclaiming some of its right-of-way to put the Burgess garage back on their property.

MOTION: (Stone/Thomas) I move that we approve the site plan as submitted, subject to the following conditions: 1) the City Engineer’s comments in our package; 2) the requirement that the developer comply with the State Highway Administration requirements for the improvements on Salem Avenue; 3) the item concerning the submission of the subdivision plats with recording the homeowners’ association (item 3 of staff’s memo); and 4) the requirement that the developer build the screen trees around Mr. Manspeaker’s house as shown on the drawing submitted.

DISCUSSION: Staff asked that approval of the forest conservation plan be added to the motion since it is a separate file. Mr. Stone amended his motion to read that we approve the site plan and the forest conservation plan subject to those four conditions. Mr. Thomas agreed to the amendment

ACTION: APPROVED (Unanimous)

**Hagerstown Commerce Center – 89 All Star Court – Waiver Requests,
Case Nos. ZS-2019-07 and ZS-2019-08.**

Staff Report: (waiver request application is in the meeting file): Due to unanticipated construction conflicts with utilities, the developer has found it difficult to install street trees along the frontage of this site.

Commission/Applicant Discussion: Alyse Cohen of Hagerstown Commerce Center and Clint Rock of Fox & Associates, Inc., engineer for the project, participated via Zoom. There are buried utilities along All Star Court where the street trees are proposed. The utilities do not leave room for the trees. City Light is strongly discouraging the planting of trees in this area. Mr. Rock pointed out that the parking areas are in close proximity to All Star Court; the trees in the parking lot will be near the road and could serve dual purpose for parking and street trees. Mr. Wright asked if this request would affect the forest conservation plan. Mr. Bockmiller stated that there would be no forest conservation implications with this waiver request. Commission members had no concerns about this request.

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- MOTION:** (Thomas/Stone) I recommend that we eliminate the 21 street trees as indicated on this sketch.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

Hagerstown Business Park – Lot 6, ESD Sketch Plan.

Staff Report: (staff memo and City Engineer report are in the meeting file) The developer proposes to construct a 40,000 square-foot flex space building on this property. Driveways, loading docks, and parking are proposed on all sides of the building. Access to the site would be via the Sweeney Drive cul-de-sac. The City Engineer provided notes and three comments on this project and generally approved the stormwater management approach, with detailed review to be undertaken when site development plans are submitted for review. Stormwater management is being handled on a regional basis; the site plan will only have to address water quality.

Staff noted that the only noncompliant element that may require a waiver if it proceeds is the absence of six feet of landscaping along the west and front sides of the building. There is adequate room on the site and staff recommended against entertaining waivers on this issue.

Commission/Applicant Discussion: Mr. Wright noted that the proposed site plan should indicate the dumpster location. He also asked about the pre-cast concrete walls shown along the loading docks. Trevor Frederick of Frederick, Seibert & Associates, Inc., engineers for the project, explained that the developer has used pre-cast Jersey barrier-type walls with other projects they have done. Mr. Frederick stated that Sweeney Drive has not been constructed into Linwood Hollow. He asked what his client’s responsibility will be with regard to the installation of sidewalk along Sweeney Drive. Commission members stated that since that has all been quitclaimed away it is part of the big lot behind it. The developer that builds the road would be responsible for building the sidewalk. Mr. Bockmiller agreed that since the road has not been built yet, the sidewalk will not have to be installed until road is built.

Commission members supported staff’s position against landscaping waivers. Mr. Wright asked about the purpose of the gravel lot. Mr. Frederick stated that the developer said the area would be graded since they don’t have an identified use for the area. The plan is to mass grade while they have equipment there. Staff suggested that instead of gravel it could be turf. Mr. Bockmiller stated that the area needs to be labeled on the site plan but needs to be chained off to prevent parking. Mr. Frederick was not sure if the area is intended for overflow parking or if it will be used by tenants of the flex space. Mr. Bockmiller suggested letting staff and the developer work out the details on this area during development review. Mr. Bockmiller noted that the use of the flex space must be uses that are permitted under IG zoning.

With regard to approval of the sketch plan:

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

Planning Commission Business:

Electric Vehicle (EV) Charging Stations in Required Parking Lot Landscaped Islands.

Staff Presentation: (copy of staff report in meeting file) The City has received building permit applications for installation of two EV charging stations in the landscaped islands in front of one of the stores in the Valley Park Commons Shopping Center. The area in question contains required landscaping per Article 5 of the Land Management Code. Staff noted that an EV charging station is similar to a traditional gas pump in size and mass and will generate pedestrian activity in its immediate proximity. Before reviewing the issue further, staff requested input from the commission. Staff’s initial reaction to the proposal is that it is not appropriate for a required landscaped area and the developer should find a way to accommodate the stations somewhere in the paved area.

This is the first time equipment has been proposed in landscaping elements required in Article 5. Staff wanted feedback from the Planning Commission on how to proceed.

Commission Discussion: Representatives of Volta, the EV charging station developer, participated on Zoom, including Sam Applegate, Nick Madonia, and Jeffery Sallie.

Commission members were concerned about the location of the pumps in prime parking areas near the stores. They believed the pumps should be located in less prominent locations if they are to be built in shopping center parking lots. Shoppers prefer to park closer to the stores they plan to visit; and the addition of the charging stations could also add to “the mix” and possibly create traffic circulation safety issues. Another concern was the location of the pumps in dedicated landscaping areas, which are part of approved site plans. Commission members were not in favor of sacrificing green space/landscaping for a charging station.

Ms. Applegate stated that Volta charging stations are free to the driver. Volta has partnered with Valley Park Commons and contracted these stalls. The charging stations need to be close to the building because they have sponsorship partners that pay for the power. Mr. Madonia stated that no trees or shrubs would be removed in order to install the pumps, nor would there be any disturbance. The only spot designated for charging will be the one with the EV striping. Mr. Madonia explained that a bollard will be installed to protect the charging station.

Commission members directed staff and the vendor to work this out with the idea that the commission is not in favor of putting them in landscaped areas. The vendor needs to come back to a subsequent meeting with options for another location. Ms. McIntire asked about a compromise that would combine both and wanted to know how much landscaping would need to be removed. Mr. Madonia stated that the concrete station bases are approximately nine square feet and 3.5 feet long.

Land Management Code 2020 Package of Amendments – Recommendation to Mayor and City Council.

Staff Presentation: (copy of staff report in meeting file) The Planning Commission held a public review meeting on the proposed text amendments on December 9, 2020. At that time the record was left open for 15 days. Staff noted that no additional testimony was received during the 15-day comment period.

At the public review meeting Jim Castillo, representing the Doub Farm property, offered the following comments:

- Proposal #5. Small-scale breweries, distilleries and wineries should be allowed in the CR, CG, POM districts in any building and not just ones that predate 1956. Also, allow outdoor speakers but impose a maximum sound limit in decibels and a curfew hour for use of speakers.
- Proposal #7. Consider a reduction of the parking requirement when public transit is available. Mr. Castillo questioned how staff calculates “net area.”
- Proposal #14. Rather than setting arbitrary pavement thickness, Mr. Castillo recommended adopting the “California Bearing Ratios” subject to approval by the City Engineer. This evaluation calculates appropriate thickness of paving based on soil conditions. The City Engineer does not object to this approach, but suggested making the requirement more generalized, as follows:

Asphalt paving and concrete paving of such areas shall be of sufficient thickness and composition to provide a durable, long-lasting surface. When proposing to pave areas as part of a site plan or subdivision plan, the developer shall propose an appropriate depth and composition of paving, and provide a geotechnical report identifying the nature of the soils on which the paving will be installed and an evaluation of the appropriateness of the depth and composition proposed. This shall be subject to approval by the City Engineer through the site plan or subdivision plan process.

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Staff would like to forward this package to the Mayor and City Council for a public hearing.

Commission Discussion: Concerning the testimony received during the public review meeting, commission members agreed with the suggested changes dealing with paving thickness. The remaining suggestions were not recommended for inclusion in the packet that will be forwarded to the Mayor and Council.

MOTION: (Wheeler/Davis) I'll make a motion to forward the Land Management Code text amendment package to the Mayor and Council with the change we approved.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - McIntire)

Board of Zoning Appeals Agenda – January Hearing.

Commission members declined to forward comments to the BZA.

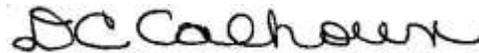
Announcements.

None.

Adjourn. It was moved and seconded that the meeting adjourn (6:05 p.m.).

2/24/2021

Approved



Debra C. Calhoun – Secretary