

This meeting was held remotely via Zoom and was broadcast to the public via the Planning and Code Administration Department's YouTube channel. Michael Gehr, chair, called the meeting to order at 4:30 p.m. on Wednesday, March 25, 2021. A roster of the members of the commission and the technical posts they fill are on file and available upon request. Also participating virtually were commission members L. Allen, D. Carroll, C. George, and R. Powell. S. Bockmiller, Development Planner/Zoning Administrator; and D. Calhoun, Secretary, were present at City Hall on behalf of the Planning and Code Administration Department.

Approval of Minutes:

March 11, 2021:

MOTION: (Powell/Allen) Move to approve.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

CONSENT AGENDA

Mr. Bockmiller asked if the commission would be amenable to amending the agenda to include an additional case on the Consent Agenda for 170 West Washington Street. It is a routine case involving replacement windows and a handicap ramp that meet the commission's guidelines.

Commission members had no objections and the chair asked for a motion to add Case 2021-17 to the Consent Agenda.

MOTION: (Allen/Powell) I so move.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

**43 South Potomac Street – Authentic Community Theatre, Inc. – Signage,
Case No. HDC 2021-15.**

**170 West Washington Street – Patrick Grace – Windows and Handicap Ramp,
Case No. HDC 2021-17.**

MOTION: (Powell/Carroll) Mr. Chairman, I have reviewed the materials submitted in Cases No. HDC 2021-15 and 2021-17 and their associated staff reports and recommendations and I have viewed the properties in question. The staff

report recommends approval of these applications as consistent with the applicable standards adopted by this commission, and no one has appeared at this hearing with concerns about, issues with, or objections to these applications. Therefore, I move that this commission adopt the staff evaluation and recommendations in these cases as its own and grant Certificates of Appropriateness to the applicants for Case No. HDC 2021-15 and HDC 2021-17.

DISCUSSION:

None.

ACTION:

APPROVED (Unanimous)

DESIGN REVIEW

1020 Oak Hill Avenue – Timothy Harman – Patio, Case No. HDC 2021-16.

Mr. and Mrs. Timothy Harman, 1020 Oak Hill Avenue, Hagerstown, Maryland, owners of the property; and their contractor, Eduardo Rodriguez, the applicant, were present on Zoom.

Staff Report: Staff noted that this is a corner lot (Oak Hill Avenue and West Irvin Avenue). The property owners propose to remove an existing wooden deck on the rear of the historic portion of the house and wooden stoop with stairs from the 1990s rear addition, and construct a raised 23 x 31-foot masonry patio with steps where the deck was located, including a 5 x 5-foot fire pit; rebuild the stoop on the 1990s addition with stairs to the new patio using PVC railing systems; install a 22 x 24-foot pool deck that will surround an inground pool (pool design review application to be submitted later); remove existing concrete pad adjacent to the rear alley; and remove a small retaining wall in future pool location, as well as remove a paved basketball court, regrade and sod the area.

Staff recommended approval. There is an existing ornamental metal fence, retaining wall and topography that mostly mask the improvements. The patio will be installed slightly uphill and is by its nature flat to the ground which will have minimal impact and be minimally noticeable from the street. Staff noted that the property owners and the applicant submitted several “options” with regard to materials. The commission will need to discuss with the applicant which materials are preferred. Staff also noted that the PVC railing on the replacement stoop is not one typically used for improvements visible from public ways.

Applicant/Commission Discussion: Mr. Harman asked for advice for on alternative materials for the railing. He believed that once the proposed shrubs and bushes are planted the railing will not be visible from the front and minimally visible from West Irvin Avenue. Commission members agreed with staff that the PVC material is not compatible with the character of the district. Mr. Gehr stated that railings are typically wood. Mr. Carroll asked if the property owner would have an objection to using wood or metal as the railing material which is more in keeping with the character of the district. Mr. Harman stated that he did not have an objection to substituting a

wood or metal railing and amended the application to use wood or metal railing materials in place of the fiberglass on the stairs that lead up to the deck.

Concerning the patio materials, Mr. Gehr agreed with the staff report that the materials will be minimally visible from public ways. He did not have an objection to any of the materials and asked if the property owner had a preference. Mrs. Harman stated that they would prefer to use Travertina around the fire pit and the pool, and the main patio would be the Borealis. Travertina is more suited for around the pool deck because it is not slippery. Commission members had no objections. However, Ms. Allen asked the property owners to narrow their choices down. Mr. Rodriguez, the contractor, said the preference would be to do the fire pit with Option 2 (Travertina Raw); the retaining wall around the patio would be the same material. The patio will be Option 2 (Borealis). The pool deck will be patio stone Option 1 (Travertina Raw). The cap and wall would be the same as what is around the fire pit (Travertina Raw-Wall and Travertina Raw-cap). Mr. Rodriguez asked if he needed to resubmit plans for the deck steps and landing before they do the work. The Harmans stated they prefer the metal options. Mr. Bockmiller asked if the commission was comfortable with staff reviewing the materials for the railing to signing building permit. Commission gave staff permission to approve the stair railing for the building permit. Mr. Bockmiller asked the applicants to send him an email with the proposed railing system to incorporate it into the building permit file.

MOTION: (Carroll/Powell) Mr. Chairman, I have reviewed the materials submitted in Case No. 2021-16 and its associated staff report and recommendations and I have viewed the property in question. The staff report recommends approval of this application as consistent with the applicable standards adopted by this commission, with specific requirements that Travertina and Borealis stone is used as represented and that the railing consist of iron consistent with design of the home and it would be reviewed by staff; and in addition, no one has appeared at this hearing with concerns about, issues with, or objections to this application. Therefore, I move that this commission adopt the staff evaluation and recommendations in this case as its own and grant a Certificate of Appropriateness to the applicant for Case No. 2021-16.

DISCUSSION: Mr. Bockmiller asked that the motion be amended to specify black metal for the railing, not necessarily iron. Mr. Carroll and Mr. Powell agreed to the amendment.

ACTION: APPROVED AS AMENDED (Unanimous)

**14-16 East Antietam Street – 14 16 & 24 East Antietam LLC – Demolition,
Case No. HDC 2021-14.**

Daniel Hockman, Bowman Development, Jeff Tedrick, Tim Keller, was present via Zoom.

Staff Report: The property contains two buildings. The building subject to the proposed demolition is a circa 1890s building that appears to have been constructed as a two-family dwelling in the Second Empire style and modified later for apartment use containing five units. It is minimally modified from its historic configuration on the exterior (partially enclosed windows, porch construction, etc.). There is a second building on the property, abutting the alley, which appears to be of vernacular/Federal design, and per available city maps, appears to date from about the 1870s or early 1880s. There is no request at this time to demolish the second building.

The applicant seeks a Certificate of Hardship for the proposed demolition of the building. The basement would be filled with shale and stabilized as a temporary condition until the applicant decides how to further develop the site. Per the adopted Rules for a Certificate of Hardship, as well as Section T.4. of the Zoning Ordinance, the Zoning Administrator may advance the application to this level without requiring the applicant to first attempt to obtain a Certificate of Appropriateness when he or she “determines that the HDC, in the reasonable application of the standards in its Design Guidelines duly adopted by the Mayor and City Council, will likely be required to reject the application for a Certificate of Appropriateness...” As Zoning Administrator, Mr. Bockmiller directed the applicant to proceed to applying for a “Certificate of Hardship.” At this point Mr. Bockmiller entered into the record the standards for Certificate of Hardship which was outlined in the staff report (see meeting file).

The applicant is seeking a Certificate of Hardship under Subsection (1), “Undue Financial Hardship.” The applicant has mentioned that they desire to use the space currently occupied by this building for potential expansion or support of their rehabilitation of the adjacent Masonic Lodge building. However nothing has been provided presenting what is proposed or what this will accomplish, so a “Major Economic Development Opportunity” (MEDO) proposal is part of this application. Without supporting documentation, this discussion point would be hard to accomplish demonstrating that Subsection (3) is applicable.

Concerning burden of proof, the applicant provided a report on the cost to rehab the building and the expected cost and income projections for the building should it be rehabbed.

Condition of the Building: The applicant states in their application “structurally, the building appears relatively sound.” City inspectors gained entry to the property following the fire and have informed staff that the building is sound and can be rehabilitated. For the most part the fire was confined to the rear of one unit. The interior of the building is very dated in finishes and improvements.

**Historic District Commission
MINUTES**

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Data and Estimates: The applicant provided the following data regarding this request:

Property purchased in February 2018:	\$135,000.00
Estimated value of lot without building removed:	\$ 52,000.00
Demolition price provided by Allegany Wrecking and Salvage:	\$ 38,800.00
Estimated fair market value of land after demolition:	\$ 13,200.00*
Estimated value of land per Department of Assessments and Taxation:	\$ 80,000.00
Estimated value of buildings (pre fire) per Dept. of Assessments and Tax.:	\$196,500.00
Estimated value of property with buildings per Dept. of Assess. and Taxation:	\$276,500.00
Rents assigned (pre-fire): \$35,364 annual, 80% occupancy per description:	\$ 28,291.00
Rents estimated (post-renovation): (assumes full occupancy)	\$ 40,200.00
Travelers Insurance Company: Maximum Renovation Estimate:	\$249,533.75
Actual Cash Value of Renovations:	\$183,538.85
Post renovation value:	\$296,533.75

* SDAT information on four other unimproved lots downtown on West Antietam and West Washington Street shows assessed value ranging from \$42,400 to \$51,800 per lot.

Per the applicant's usage of the insurance estimator's figures, it would appear the property was sufficiently insured and funds from the insurance policy on the property are available to underwrite renovation costs. Staff noted that site data seems awkward in some respects as it seems not to take into account the second building that exists on the property and will remain.

Recommendation: Demolition of any contributing resource is inconsistent with the intent of the Zoning Ordinance, general preservation principles and the Design Guidelines; however, provisions are written into the code to address certain circumstances under which demolition is permissible.

The data provided shows that there appears to be insurance funding in place to finance much of the rehabilitation costs, and rents and occupancy would improve after renovation. Addressing or contemplating potential improvements with the adjacent property to justify the demolition staff believes is premature as no specific plans are proposed. A copy of the materials submitted with the application were forwarded to commission members for their consideration.

Staff recommended that if the request is approved, a time limit for the use of shale stabilization of the site be imposed, with the site to be covered with topsoil and seeded if plans for reuse of the site are not implemented by a specific date. Stone stabilization should not be an indefinite condition in the City Center area or the historic district.

Applicant/Commission Discussion: Dan Hockman, representing the applicant, stated that there have been two fires and the building is being used by trespassers. Heating pipes have been stolen. The applicant has recommendations from the Deputy Fire Marshal and the Fire Chief supporting the demolition application. Mr. Gehr stated that the commission was not in favor of creating holes in the streetscape. More information about the developer's plans for the property are needed. Mr. Hockman indicated there has been discussions of using the space created to enhance Masonic Temple property also owned by the developer. Another parking garage has been suggested by the City.

Rob Ferree, also representing the developer, was present and provided information to give the commission a better idea of the vision for this property. The developer sees East Antietam Street as possible opportunities to explore and see what happens. The developer would like to develop the site when it becomes viable. The property faces the back of the Masonic Temple, and one of the tenants in that building is the proposed distillery. They also plan to get other retail office users in the Masonic Temple building. The rear portion of the Masonic Temple is an auditorium space; the space created by the proposed demolition could provide access to that portion of the building. The rear portion of the Masonic Temple could be demolished to allow expansion of the A & E parking deck out East Antietam Street. They would like to build residential properties when the downtown can support rents that would make that investment viable. Not knowing what the future holds, they want to have options when potential uses become economically feasible. Demolition will get rid of a building that is in really bad shape and does not make sense to revitalize.

In response to an observation by Ms. Allen that the Fire Chief was supporting the demolition because there was combustible material that needed to be removed, Mr. Ferree stated that vacant buildings are fire hazards. He offered to get a firmer rationale for demolition of the building from the Fire Chief. Mr. Gehr asked when Bowman (the developer) acquired the property. Mr. Hockman stated the building was purchased by Bowman in February 2018 (page 3 of their submittal). There was a major fire in 2019 in the top floor and another fire in 2020 as a result of vandalism and a break in.

Mr. Bockmiller asked if there would be any value in organizing a tour of the building for interested commission members. Mr. Carroll stated that he was struggling with demolition of the building without a concrete plan for the space after the building was removed. He did not believe there was enough support in the documents provided for undue financial hardship argument. Mr. Gehr also was concerned creating another empty space downtown. He does not like to see buildings coming down unless there is a legitimate reason for the public good.

Mr. Ferree had no issue with the HDC touring the building and agreed to make arrangements to show HDC members the property. Several commission members indicated they were interested in a tour. Mr. Ferree asked the commission to determine a date and time and he will arrange the tour. He also offered to show them the Masonic Temple building to demonstrate how it could tie in to the property in question. Mr. Carroll asked why the second building is not included in the

demolition plans. Mr. Ferree stated that the other building is more structurally sound and there are tenants in the building.

MOTION: (George/Allen) Motion to table (until after field visit).
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

102 South Prospect Street – Diane De Laet – Request to Reconsider Use of Vinyl Siding on Proposed Garage, Case No. HDC 2021-11.

Ruhl De Laet and Diane De Laet, 102 South Prospect Street, Hagerstown, Maryland, property owners, were present via Zoom.

Staff Report: This is an amended application. At the last meeting the HDC approved construction of a new garage in the rear yard; the approval was subject to an amendment made by the applicant at the request of the commission to include the use of fiber cement siding in place of the vinyl siding stated on the application. Ms. De Laet requested to come back to the commission to amend the approval to use vinyl siding as originally proposed. Staff could not recommend approval of this change for the same reasons cited in the previous staff report (see meeting file). Staff entered the following points into the record as developments from the previous hearing:

- It was stated that the garage would be about 200 feet from the rear of the house. Based on measurements made from satellite photographs on the internet, the distance is actually about 100 feet; and
- It was argued that there are buildings in the immediate vicinity that have vinyl or aluminum siding. Staff noted that this is correct, however, the modern siding on those buildings had that siding added prior to HDC's authority to regulate changes was created or were outside of the HDC's authority since the rear alley is the boundary of the district. The purposes of the process and the guidelines are developed for a historic district that is more in keeping with the historic character over time as applications for changes to properties come forward. If the owners of these buildings came forward with plans for significant exterior rehabilitation of these buildings the guidelines would recommend uncovering, repairing, and painting the historic siding, if possible.

Applicant/Commission Discussion: Ms. De Laet had no objection to staff's two points entered into the record. She asked how many of the commission members are familiar with her property and whether any of the members visited the site in person. Mr. Gehr indicated that he has been by the property many times including today. Ms. De Laet wondered how commission members could view the property without being familiar with it. Ms. De Laet questioned whether the public had an opportunity to provide comments on this application, even though HDC meetings are open to the public. Ms. Allen was not sure what Ms. De Laet's line of questioning was trying to do.

Mr. Gehr stated that it is moot because the Design Guidelines do not recommend the use of vinyl siding in this situation. The garage will be very visible from West Antietam Street and South Prospect Street. Had the property been located further down the block and the garage was not visible from a public way, the use of vinyl might have been approved. However, the location of this garage will be in a very visible location for vinyl siding. Therefore, the guidelines do not recommend the use of vinyl siding in this case.

Ms. De Laet read into the record the “New Construction” standards found in the Residential Design Guidelines. She contended that the project was designed with respect to the cultural landscape. She chose a design that would complement the surround area. Character-defining features will not be destroyed or impacted. The proposed garage would be located in the rear yard on an elevation that is less than 20 feet from West Antietam Street. The size and scale of the project is limited—832 square feet which is nominal compared to 8,000 square feet that is the primary structure. The new construction will be undertaken in such a manner that this historic property will be unimpaired. The garage would be subordinate to the historic structure. The new construction would not be confused with the historic structure and no one would assume that it is a historic structure. The garage would not change the defining characteristics of the historic structure and the historic character of the property will be protected. Distinctive features of the property will be preserved; historic materials will not be disturbed.

Mr. Bockmiller pointed out that the applicant appears to be establishing a record in order to take this decision to court.

Ms. De Laet next read into the record the National Historic Preservation Act, jointly administered by United State National Park Service and the Maryland Historical Trust. Design Review must be conducted according to the Secretary of the Interior’s Standards for the property. She read the criteria into the record and stated that she has been verifying such compliance in her professional career. She contended that no one has explained how this would negatively impact the district or the historic district. She argued that she would like to be able to use the same materials that other property owners have used in the district and contended that the HDC does set precedent.

Ms. De Laet cited the property at 140 West Antietam Street which is directly across West Antietam Street from her property. The owner installed HVAC equipment that is in view from the Dry Bridge and from her home. She asked how their preferred textured wood-grain vinyl product is different than the textured wood-grain fiber cement product. Ms. De Laet felt the conclusions reached by the commission were arbitrary and not acceptable and asked for the HDC’s thoughtful consideration and approval of this request.

Ms. Allen asked what point the applicant was making by the reference to 140 West Antietam Street. Ms. De Laet said that you look from the Dry Bridge toward 140 West Antietam Street you get a view of eight HVAC units that are visible and unscreened. Motorist traveling west on West Antietam Street can see three additional unscreened wall-mounted units on the building and wondered why that is acceptable. Ms. De Laet contended that the commission cannot make a reasonable assessment without visiting the property. Many of the members polled stated they had

not visited the property. Ms. Allen stated she has lived in the area for eight years and has been by the property hundreds of times.

Mr. Bockmiller stated that all or most historic districts have design guidelines because the Code of Maryland is enabling legislation. Each district has its own unique style and character so the federal and state regulations are not the “be all end all” of unique sets of standards. The HDC has two sets of guidelines, one set for the Downtown District and one for the residential historic districts. Under “New Construction Materials” state “Use of new materials, such as plastic, only if they can be properly shielded from public view or assimilated with current materials” and “The commission will consider siding made of modern materials for new construction and/or additions depending upon the location of the construction on the building and the surroundings of that building. Environmental settings may also be considered. Window, door, corner trim boards and siding must no cover up cornice or eave details on historic structures.” The standard the commission has traditionally used is how visible it is from a public street. If the property is not visible from public streets, the use of vinyl siding would most likely not be an issue.

Mr. Carroll was ready to vote on the application. He stated that he had not heard anything that would alter his position that vinyl siding is not appropriate in this location.

Mr. Powell called for the question. Staff pointed out that if the requested amendment to vinyl is denied, it would not affect the previously approved application. The applicant would still have approval to build the garage using fiber cement siding.

- MOTION:** (Powell/Carroll) Mr. Chairman, I have reviewed the materials submitted in Case No. HDC 2021-11 and its associated staff report and recommendations and I have viewed the property in question. The staff report recommends denial of this application as inconsistent with the applicable standards adopted by this commission, and no one has appeared at this hearing other than the principals with concerns about, issues with, or objections to this application. Therefore, I move that this commission adopt the staff evaluation and recommendations in this case and not grant a Certificate of Appropriateness to the applicant for Case No. HDC 2021-11.
- DISCUSSION:** Ms. Allen stated that the prior application in this case will stand for the use of the alternative material so the applicant can proceed with the garage construction. Mr. Powell and Mr. Carroll agreed to the amendment.
- ACTION:** APPROVED AS AMENDED (3-1; YES – George, Allen, Carroll, Gehr; NO - Powell)

WORKSHOP

None.

NEW BUSINESS

**Historic District Commission
MINUTES**

**March 25, 2021
City of Hagerstown, Maryland**

2021 Preservation Awards. Month.

MOTION: (Allen/Carroll) I move to table the preservation awards discussion.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

OLD BUSINESS

None.

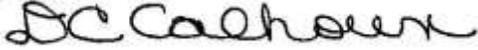
ANNOUNCEMENTS

- Mr. Bockmiller informed commission members that the site plan for Hatter’s Plaza will be coming to the commission for review at the next meeting.
- Mr. Powell said unless he is mistaken in cases 2020-29 and 2020-34 the HDC did approve vinyl siding, namely the garage at 1003 The Terrace and a rear addition at 941 Forest Drive. Mr. Gehr pointed out that those particular applications were minimally visible from public ways.

ADJOURN

It was moved and seconded that the meeting adjourn (6:27 p.m.).

6/24/2021
Approved


Debra C. Calhoun – Secretary