

Douglas S. Wright, Jr., chair, called the meeting to order at 4:02 p.m., on Wednesday, August 10, 2011, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, D. Miller, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Planning Director; S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.

WORKSHOP MEETING

Approval of Minutes: July 27, 2011 - Regular Meeting

- MOTION:** (Thomas/Miller) I'll make a motion that we approve the minutes from July 27, 2011.
- DISCUSSION:** It was noted that a comment attributed to Mr. Wright on page 7, first paragraph; last line, was actually made by Mr. Miller. Mr. Thomas amended his motion to include the correction on page 7; Mr. Miller seconded the amendment.
- ACTION:** APPROVED AS AMENDED (ABSTAIN - Wheeler)

Oak Ridge Mills - [Tent.] 1362 South Potomac Street - Commercial Pad Sites, Rough Grading Plan, Case No. ZS-2008-03; Forest Conservation Plan, Case No. FC-2010-03

Staff Report: The proposed site plan is for mass grading of the Oak Ridge Mills property which consists of 13.36-acres. The property is located between the Sheetz convenience store on the northeast corner of South Potomac Street and Oak Ridge Drive and the Scarlet Hills Apartments site. The site is proposed to be graded in preparation for the construction of a small shopping center. The developer would like to grade the property with the hope of making the site more attractive to potential tenants since the mass grading proposed will shorten the site plan and construction process once tenants are secured. Per feedback from the State Highway Administration (SHA), there will be one point of access on South Potomac Street, and improvements along that street will be in accordance with SHA standards. Sidewalks along Potomac Street will be provided. A draft concept of the anticipated future site plan is in the meeting file. The actual site plan submission for development of improvement may be subject to revisions depending on the nature of the tenants that are secured for the site.

Existing trees would be removed. While there are stands of trees located at locations throughout the tract, none meet the definition of "forest" for the purposes of the ordinance. For the development of this tract the ordinance requires forest planting in the amount of two (2) acres. The applicant seeks approval of a preliminary forest conservation plan strategy which includes the following: 1) street trees providing a canopy of 0.91 acres along South Potomac Street;

installation of street trees may be deferred until a final site plan of development depending on the circumstances; and 2) a reforestation area of 1.12 acres to be provided on the graded slope on the eastern portion of the site (adjacent to the railroad tracks). Once mature, this area will help mask the backs of the commercial buildings from the residential development on the east side of the railroad tracks. This area will be installed as part of the mass grading plan in order to allow the buffer to become established before the buildings are constructed. Staff is also requiring that the buffer from the adjacent residential development to the north be installed along the property line as part of this phase of development for the same reason. This buffer is not needed for or included in the forest conservation calculations.

The site plan has been reviewed by the review agencies. All agencies, with the exception of the City Engineer, have approved the site plan. A copy of the City Engineer's comments are in the meeting file.

There will be one point of access on South Potomac Street and improvements are proposed on South Potomac Street that are in accordance with SHA specifications. There is no delineated forest because the forestation on site does not meet the definition of a forest according to the state's guidelines. The developer will claim street tree credit for the trees being planted along South Potomac Street. A pad is being graded to a point on the east side with a steep slope to the storm water management area. The applicant will plant the steep slope and will do the forest conservation planting first. Landscaping is required between site and existing residential area. The landscaped buffer will be installed as part of the grading. This will give landscaping a few years jump in growth before the commercial pad sites are developed.

Commission/Applicant Discussion: Tony Taylor of Frederick, Seibert & Associates explained that the sediment trap is a temporary measure while the grading is being completed. Mr. Wright questioned the height of the soil stockpile. Mr. Taylor said the size of the stockpile will depend on how much topsoil is on the site. The stockpile will evolve as the site develops. Mr. Wright was concerned that the residents to the east will have to look at a major pile of dirt until the project is completed. Mr. Taylor noted that the stockpile will have to be moved in order to plant the buffer. Mr. Wright asked that if the site plan is approved that a provision be included that if within a specified period of time nothing is progressing that the stockpile would need to be removed or the developer would need to come back to the commission. His argument was that the residents need some protection that if the worst happens and site cannot be developed within a reasonable period of time that they are not stuck with the topsoil pile on the property line. Mr. Wright wanted the same type of stipulation for the street trees. If at some point, the project does not proceed as planned, there should be a mechanism that allows the City to make sure the street trees are planted. Mr. Bockmiller noted that this would be an enforcement issue. A condition could be placed on the site plan that if it is not filed within 24 months, the street trees need to be planted and the stockpile needs to be removed. Mr. Taylor noted that sidewalks will

be constructed when they start grading. He stated that the parking lot configuration could change between now and the final site plan, in which case the street trees could be damaged when the parking lot is constructed. Jeff Tedrick, representing Bowman Development, asked that the stipulations begin when they start construction. Mr. Wright did not have a problem with beginning the two-year window at the beginning of movement of dirt for grading.

Mr. Brubaker was concerned about keeping the dust and dirt down when the developers begin grading the site. Mr. Taylor explained that water will be funneled to the pond and sediment trap. The dust will be handled by standard MDE standards (water trucks). Vegetation will be planted to create a grassed area. Road improvements will be done when the rough grading begins. The topsoil pile will be seeded as prescribed by law. Ms. Maher advised the developer to be cautious about making sure vegetation will grow on the steep slope. They need to create an environment where trees will grow if this is to be a forest conservation area.

There was a question about whether the Roy's Car Care site is part of this development. Mr. Taylor stated that none of the Roy's site is part of the proposed disturbed area.

MOTION: (Miller/Thomas) I make a motion to approve the grading plan, subject to the conditions outlined, including the administrative Engineering comments and including a two-year limit on planting street trees and moving the stockpile. In addition, the developer is on notice that they are entirely at their own risk for moving dirt.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

ProBuild - 1743 Dual Highway, Site Plan, Case No. ZS-2011-05; Forest Conservation Plan, Case No. FC-2011-02

Staff Report: A site plan has been filed for the creation of an outdoor storage area for construction supplies associated with an adjacent business that deals in such materials. The storage yard will be fenced, and traffic flow will be one way from the Dual Highway with an exit driveway to Paul Smith Boulevard. Paving will be as discussed with the Planning Commission at a previous workshop meeting. Nine street trees will be provided along Paul Smith Boulevard and a double-staggered row of Emerald Green arborvitae will be planted along the exterior of the fence along the side of the compound that faces Paul Smith Boulevard. The storage area will be gravel. Seventeen employee parking spaces will also be located within the fenced compound. The fence will be six-foot tall chain link. The enclosure measures approximately 360 feet by 240 feet. Arborvitae trees will also be installed on either side of the exit driveway.

All agencies have approved the site plan with one administrative comment that a parking easement plat is required. Staff recommended that the plan be approved, contingent upon the parking easement plat.

Commission Discussion: Forest conservation consists of a street tree credit and an approximate \$4,000 fee-in-lieu contribution. Mr. Wright questioned why fee-in-lieu is being proposed since there appears to be sufficient open space on the site to plant trees. Mr. Bockmiller explained that historically in commercial zoning districts staff has been amenable to fee-in-lieu so the trees do not interfere with future development. The storm water management pond is a possible location, but it depends on the type of pond as to whether it would be a workable location for trees. Ms. Maher noted that the planting fund balance is low because the money is being used each year to plant trees around the city. It was noted that certain standards need to be met for "forest" planting so just adding trees would not necessarily meet the standards of the ordinance. Commission members and staff discussed the possibility of extending the vegetative screen further east, which would help to mitigate the view of the storage lot from the adjacent hotel. Mr. Thomas pointed out that there are no windows on that side of the hotel and there is a retaining wall in the location of the conference room. There are no guest rooms on that level. The commission decided that screening would not be necessary by the hotel.

Staff noted that there are shared parking easements on the front part of the site. The City Engineer wants to ensure that the easements are recorded before the site plan is approved and signed.

MOTION: (Thomas/Miller) I move to approve the site plan subject to the conditions.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Brubaker)

Local Conversion Zoning Districts - Requirements and Expectations for Building Improvements

During the public review meeting for a local conversion district overlay on July 27, commission members and staff debated whether the Planning Commission has the authority to require property owners to make upgrades to their buildings in return for the zoning overlay (see staff memo in meeting file). Historically the City has had very few overlay zoning districts. Overlay districts are based on the applicant's proposal and whether to approve the applicant's proposal is discretionary on the part of the legislative body. The Local Conversion District Overlay was envisioned as an urban redevelopment tool to upgrade and fill the vacant buildings. The trade-off is whether the City will give an applicant permission to operate a business within a few feet of someone's home in return for necessary rehabilitation. The City must ensure that whatever

business use is approved, it presents the best possible impression on the residential neighborhood. This overlay zone must be viewed as a zoning tool to allow businesses while protecting the neighborhood. The commission needs to create a consistent track record on how these properties are dealt with. How the properties are dealt with will vary from property to property because of each property's unique situation. So far the applicants have not proposed any improvements; in future staff will ask applicants to bring forth proposals for improvements.

Mr. Wright stated that there were a number of items with the Corsi's Local Conversion District Overlay request (neon tubing, internally lit sign, fencing) that had an impact on neighborhood and would be better if those items were removed. With the View Street Diner there were concerns about elimination of bushes and striping of the parking lot. The Mayor and Council became involved with Corsi's as far as movement of the curbs and alignments. Compared to the Hodge application where staff recommended changing out the entry door, the first two cases had more major issues. Mr. Wright was concerned the City is imposing its desires on someone who is trying to start a business in the community and utilize the property. The existing door is a usable door and would be allowed anywhere in the city. He did not see the connection between protecting the aesthetics of the community or the impact on the community by having the door replaced. Staff noted that much of the discussion on July 27 revolved around whether the commission has the right to require this at all. Mr. Brubaker recalled that not all of the Planning Commission members supported the argument that it did not have the right. Ms. Maher said staff did not hear that verbalized.

Mr. Brubaker supported the idea of staff working with applicants in making recommendations. Ms. Maher stated that staff will change its approach and sit down with applicants so any improvements would be initiated by the applicants. Mr. Thomas noted that the proposed door will help to differentiate the residential side from the commercial side of the building. Mr. Wright was afraid of "Big Brother" telling citizens what to do. The full-light door would be smart for Ms. Hodge to make her business more visible. Ms. Wheeler stated that if we lose opportunities to improve properties, people will be complaining about the same problems 15 years from now.

245-247 North Locust Street - April L. Hodge, Rezoning (Local Conversion District Overlay), Case No. ZM-2011-01

Mr. Rohrbaugh stated that no comments were received during 10-day comment period after the public review meeting.

MOTION: (Thomas/Miller) I make a motion to recommend approval of the request to the Mayor and Council.

DISCUSSION: Mr. Wright proposed an amendment to the motion that the requirement that a full wood door be required be stricken from the motion.
Mr. Wrights proposed amendment died for lack of a second.

ACTION: APPROVED (YES - Thomas, Miller, Wheeler, Wright; ABSTAIN - Brubaker)

(Mr. Miller left the meeting.)

Land Management Code Amendments - Residential Districts

Mr. Bockmiller stated that staff is revisiting changes that were made to the residential zoning districts before beginning discussions on the revisions to the commercial zoning districts. Most commission members had not had a chance to review the revisions that were hand delivered earlier in the week. Mr. Wright requested that this discussion be postponed until the next meeting.

Ms. Wheeler pointed out several cross-reference discrepancies:

Page 4-16, c. Should be with "c.(1) through (3)."

Page 4-17 Mansion house apartments should be 1,500 square feet under "Lot Area" column

Concerning the mansion house zoning designation, Mr. Bockmiller noted that the issue is that they are defined as a free-standing building. There are some large attached townhouse buildings that staff would like to consider extending the mansion house zoning to include townhouses. There are some examples of the townhomes that staff has in mind on North Potomac Street across from Zion Church. Mr. Bockmiller will e-mail the Planning Commission with addresses and an analysis.

PlanMaryland

Ms. Maher reported that the Mayor and Council reviewed the staff's presentation and comments and decided to send a comment on to the Maryland Department of Planning that the medium-range growth area should be Hagerstown's GrowthPrint area. Mr. Brubaker added that the Mayor and Council also moved that the City endorse Ms. Maher's comments. Ms. Maher noted that Maryland Department of Planning officials will be meeting with staff next Wednesday (August 17).

Board of Zoning Appeals Agenda - August Hearing

The Planning Commission had no comments to pass on to the Board of Zoning Appeals on the case scheduled for August.

Other Business:

Mr. Wright asked if staff is thinking about a "sea change" in home ownership. It appears that the percentage of home ownership will be sliding in the next few years. Ms. Maher stated that it will be difficult for any home owner to maintain a very large home. Mr. Wright added that mortgages are difficult to obtain. If the City is trying to force home ownership it might be causing a problem with a non-use of building stock—driving building stock further downhill. The City may want to start thinking about backing off on trying to increase home ownership. Rentals might be the mode of the future as it was earlier in the 20th century. It might be necessary to make rentals more attractive by the elimination of disincentives.

Ms. Wheeler commented that property owners need to attract better tenants—those that care about properties both renters and owners.

The City needs to think about a new paradigm and that rentals are here to stay and to make sure the policies and objectives support this. The focus needs to shift to protecting the building stock. Ms. Maher stated that includes gearing toward shrinking down multi-unit buildings.

Adjourn: It was moved and seconded that the meeting adjourn at 5:25 p.m.

8/31/11

Date



Debra C. Calhoun - Secretary