

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, April 25, 2012, in the Council Chamber, Second Floor, City Hall. Also present were commission members M. Brubaker, D. Gysberts, J. Stone, 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.

PUBLIC REVIEW MEETING

East First Street Rezoning, Case No. ZM-2012-01

The public review meeting was called to order at 7:00 p.m.

Staff Report: Mr. Rohrbaugh presented the staff analysis (see meeting file) for this rezoning case. The request consists of five parcels which have been separated into two "areas." The total area of the rezoning request is approximately 5.5 acres. The application requests IG (Industrial General) zoning for Area 1, which is currently zoned R1 (Residential). Area 2 is currently zoned R1 and the applicant is requesting POM (Professional Office Mixed) zoning. The applicants are citing a mistake in the original zoning as the basis for the rezoning. Mr. Rohrbaugh entered into the record the advertisement for this hearing and the Planning Commission's file by reference. Mr. Brubaker asked the adjacent property owners were apprised of the rezoning and the public review meeting. Mr. Rohrbaugh stated that notification was afforded to the adjacent property owners according to the commission's policy.

Applicant's Presentation: Ed Schreiber, of Frederick, Seibert & Associates, 128 South Potomac Street, Hagerstown, Maryland, was present on behalf of Hagerstown Block Company and the other applicants in the rezoning. The rezoning requests were broken up into two separate areas. Area 1 consists of four different parcels: 350 East First Street (consisting of two parcels), which is the current location of Kline Roofing Contractors; 448 East First Street and the parcel to the rear is the location of the original Hagerstown Block Company office and showroom, equipment storage, and the block produce storage yard. Mr. Schreiber defined the neighborhood for Area 1 as Rose Hill Cemetery to the north; Frederick Street to the east; East Wilson Boulevard to the south; and Rose Hill Avenue to the west. Concerning the required change or mistake argument, the applicants contend that there was a mistake in the original zoning since the City did not consider the fact that these properties have been used for nonresidential purposes well before the comprehensive rezonings in 1977 and 2010. Mr. Schreiber stated that according to Doy Sneckenberger, who grew up in this area, the Kline property was initially used to manufacture and sell agricultural equipment. Kline Roofing and Siding moved into the building in 1981. The Kline building was built in the 1940s and has been used industrially since that time. The justification for rezoning the property to IG is that these properties are adjacent to large tracts of IG zoning on the east side and have been consistently used for industrial purposes. These

properties are separate from the nearby residential uses to the south and west by East First Street and Alley 3-011. The property to the north contains Rose Hill Cemetery, another nonresidential use. (See Applicant's Exhibit 1 in the meeting file).

Concerning 448 East First Street and the parcel behind it, these properties are the original home of the Hagerstown Block Company showroom and block products storage. Both parcels were under one ownership. The residential building was used for an office and showroom. The grounds were used to showcase the products manufactured at the site. There are detached accessory buildings that house maintenance equipment. The neighborhood definition and the change or mistake argument for these properties is the same as those listed for 350 East First Street above. The justification for the requested IG zoning is that these parcels are adjacent to large tracts of IG zoning and have been consistently used for industrial purposes. These properties are separated from the nearby residential uses to the south and west by East First Street and alley 3-011. The property to the north is developed by Rose Hill Cemetery. Further development could easily occur utilizing the existing building as an office with storage yards on the remaining 1.5 acres. As long as no additional construction occurred on the site, there would not be an issue with setbacks. The property line between the two parcels at 448 East First Street could be vacated to create a larger lot. Mr. Schreiber noted that Rose Hill Cemetery has an agreement with Hagerstown Block Company to purchase the property if the Hagerstown Block Company property is ever put on the market. The cemetery proposes to use the property as equipment storage and repair. Residential development would not be desirable on these properties due to the surrounding industrial-type uses (Four State Livestock Auction, the abandoned Statton Furniture building; Kline Roofing, and the Hagerstown Block Company truck traffic). (See Applicant's Exhibit 2 in the meeting file.)

Area 2 is made up of two parcels: 645 East First Street and 701 East First Street. The property at 645 East First Street is an office building which was built in the early 1970s. Previous occupants of this building include numerous doctors' offices, Airtek, Paws Pet Grooming, Barger Learning Center, and Big Book Yellow Pages. 701 East First Street currently houses Lycher, Inc., and had been doctors' offices previously. The definition of this neighborhood is Rose Hill Cemetery to the north; Frederick Street to the east; East Wilson Boulevard to the south; and Rose Hill Avenue to the west. Concerning "change or mistake," the applicants are alleging a mistake in the original zoning in that the City did not consider the fact that these properties have been used for nonresidential purposes since before the 1977 comprehensive rezoning and most recently during the 2010 comprehensive rezoning. The requested zoning district for these rezoning applications is POM (Professional Office Mixed). These properties have been used nonresidentially as offices for many years. They are across the street from an IR (Industrial Restricted) with an IG (Industrial General) zoning district to the west. Because these properties are adjacent to residential neighborhoods to the south, the applicants believe that the POM zoning would allow the existing office uses while creating a transition area from the IR and IG

zoning districts. POM is a lower intensity zoning district and allows offices, less intensive commercial uses, and a few light manufacturing uses. Mr. Schreiber stated that he is not aware of any plans by the owners to expand the size of these buildings. The reason for changing the zoning from R1 to POM is that the buildings are currently nonconforming uses which raises issues for the owners when they advertise the properties for rent or when trying to obtain financing for the businesses or the buildings. Mr. Bockmiller noted that the current uses of the properties is most likely the highest and best use. If the buildings would be demolished, the sites would probably be redeveloped with the same type of use.

Public Testimony:

The following persons spoke in support of the rezoning proposals:

1) Doy Sneckenberger, 1115 Murdock Avenue, Hagerstown, Maryland 21740.

Mr. Sneckenberger stated that he grew up in this neighborhood and his grandfather was one of the founders of Hagerstown Block Company. All the rest of their properties are zoned IG and it would be better if they decided to expand to not have to worry about the nonconforming use issues. The property at 350 East First Street has always been used for industrial purposes. Mr. Sneckenberger cited problems he recently ^{encountered} when he tried to replace a sign on the 448 East First Street property. His grandfather built the property and lived across the street. The residential looking house at 448 East First Street was used to host board meetings and out-of-town business associates. The property is not rented out, but currently a granddaughter is living in the residential building. The back structures have been used for maintenance and for wood working products. There is a corporate car in front garage and lawn mowing equipment is stored in another building.

2) Kenneth Kline, owner of Kline Associated Roofing Contractors. Mr. Kline stated that he has been at 350 East First Street for 35 years. They do not plan to expand because there is no room on the site for expansion. He has also been approached by Rose Hill Cemetery for a first right of refusal if Kline decides to sell his business; however, Mr. Kline stated that ^{he} has not made any commitments to the cemetery. The whole street is commercial. The railroad track runs through the neighborhood. Further east is the former Victor Products building. The Livestock Auction is across East First Street and the property that backs up from East Wilson Boulevard is commercial. Mr. Kline said he was unaware of any (nonconforming use) issues with this property until it was brought to his attention. The building has always been used commercially.

The following people spoke in opposition to the proposed rezoning applications:

1) Vickie Layton, 19321 Longmeadow Road, Hagerstown, Maryland 21742. Ms. Layton stated that she grew up at 901 Kenwood Drive. Her mother has lived there for 60 years. The

neighborhood in which she grew is the area of Kenly Avenue, Kenly Drive and Ravenwood Drive. This area is well- maintained and well kept. Ms. Layton and her mother are concerned about the potential light industrial uses that are permitted under the POM zoning and the inherent noise, traffic, lights, signs, etc. Ms. Layton stated that this is a lovely neighborhood and she would like to keep it that way for the neighbors. She stated that she is primarily concerned with the POM zoning proposed for Area 2, but also has concerns with Area 1.

2) Leroy Carey, Jr., 824 Kenly Avenue, Hagerstown, Maryland 21740. Mr. Carey stated that he lives beside Lycher Co. He wondered why the applicants are requesting a zoning change since the property has been used as an office building for years. Even though the zoning change for Area 1 would affect his property to an extent, his main concern was the zoning change to Area 2. He has lived in this neighborhood for 20 years and believes it is a nice neighborhood. He did not want the neighborhood to be ruined by potential uses in the POM zoning district, although he admitted that he is not familiar with the uses allowed in the POM zoning district. Mr. Stone asked Mr. Carey if he believed that the doctors' offices were compatible with the neighborhood. Mr. Carey stated that when he first moved in 20 years ago, the building was empty. Lycher has been a good neighbor. The building itself represents the neighborhood fine--there are no lighting problems, no lighted signs, or security lighting.

The public testimony portion of the meeting was closed.

Applicant Rebuttal: Mr. Schreiber said he understood the neighborhood's concerns. However, the POM district offers sufficient regulations to address the neighborhood's concerns. The applicants have a vested interest in their buildings, which interest was overlooked in the comprehensive rezoning process. In looking at the property 448 East First Street, the highest and best use for that property can only be industrial. To subdivide it into smaller lots with the adjacent Livestock Auction, the abandoned Statton Furniture building, and Kline Associated Roofing would be a tough sell for residential lots. There is a considerable amount of IG zoning along Wilson Boulevard.

Concerning the POM uses, they looked into the zoning districts that are available and attempted to stay away from the zoning districts that permit more intensive uses, such as commercial. The POM zoning district would allow them to have basic office uses. The applicants' intention is not to damage the neighborhood. Mr. Bockmiller read a list of some of the uses that would be permitted in POM, including: television studios, child day-care services, educational business offices; fitness centers, internet; motion picture and sound recording studios, banks, public administration offices (i.e., government office buildings), photo finishing, social assistance offices; telecommunications offices. The POM uses are essentially office park uses, although an office park would not be possible due to the size of these lots.

Mr. Gysberts asked if the property owners would have to comply with the landscaping and site plan requirements and the parking lot landscaping buffers if they would decide to change the footprint of the building. Mr. Bockmiller indicated that for redevelopment, the expectation would be that new development would have to meet the design requirements unless the Planning Commission granted waivers. Mr. Bockmiller stated that it is likely any redevelopment of the site involving a new building would require variances to be approved by the Board of Zoning Appeals. Mr. Stone noted that the reality is that the uses will be restricted by the sizes of these lots. Any type of business that relies on drive-by traffic will not do well here given that the properties are not located on a through street. The properties are suitable for small office uses. Mr. Wright pointed out that some light manufacturing uses are permitted with a special exception from the Board of Zoning Appeals.

- MOTION:** (Gysberts/Stone) I move we leave the record open for ten days to receive additional testimony.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

REGULAR MEETING

Roll Call

Mr. Wright noted for the record that ^{commissioners}~~commissions~~ Dennis Miller and Ronald Thomas were absent.

Approval of Minutes: April 11, 2012 - Workshop Meeting

A typographical error was noted on page 4; Mr. Wright requested that on page 2, add "Referring to the parcel at 448 East First Street" to the beginning of the first full paragraph under "Commission/Applicant Discussion."

- MOTION:** (Wheeler/Gysberts) I move approval with the amendments.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN - Brubaker, Stone)

FY 2013 Draft Capital Improvements Program

The commission reviewed the draft Capital Improvements Program (CIP) at the April 11 meeting but had several questions about projects listed in the plan.

Mr. Stone noted that the proposed budget is more than twice the amount budgeted for the current year. Ms. Maher explained there is more funding available in next year's budget to fund more projects. During this current fiscal year, there was not as much money available so many projects were cut. The CIP had to be kept very tight in order to balance the budget, with the understanding that the City could not keep up the austere funding plan because it would get behind in maintenance projects.

- Ms. Wheeler noted generally that several project numbers have been reused for completely different projects (In Parks, the City Park Irrigation System used to be the project number for Ice Rink Improvements. Also, East Avenue Park used to be Hamilton Park Trail.) Ms. Maher did not know the reason for the substitution. However, the justification for the City Park Irrigation System is to eliminate manual watering and create an aesthetic for public use. Ms. Maher noted that Parks and Engineering is very active in finding projects. The CIP includes projects for the East End Pocket Park, Kiwanis Park, trails around the American Legion on Northern Avenue, and they are designing a park along Memorial Boulevard across from Bester Elementary School. In addition, they are in discussions with Washington County Public Schools that if Winter Street School ever closes, that a park be established there.
- Mr. Gysberts asked about the status of Town Run and who owns it. Mr. Bockmiller surmised that the run is owned by the City, although Mr. Wright believed that the run is covered by easements only and not ownership. Mr. Gysberts stated that he still has a strong objection to all the money that is being put aside for the multi-use facility. There is no mention of a facility of this type in the Comprehensive Plan. He also had concerns about shifting blight from one area of the city to another.
- Mr. Stone asked about the project for City Park Lake Improvements (45-C047). Ms. Maher stated that the project is in the budget for 2017 to replace the walls around the upper and lower lakes. The wall needs to be replaced because it cannot be patched.
- Mr. Stone questioned the project for Pedestrian Lighting (C0388). This is a continuation of the ornamental pedestrian lighting program. Ms. Maher said \$10,000 is in this year's budget, with \$100,000 budgeted for each year after that in the 400 Block of North Potomac.
- Mr. Wright asked if there will be any more sidewalk grants from the state. There is State Highway Administration (SHA) retrofit money from Avon Road to Nottingham Road. Mr. Brubaker said funding is contingent upon the state having enough money to continue the program. Mr. Gysberts noted that there many areas, especially along the City-County boundaries (Dual Highway area is a good example) where there are no pedestrian walkways. He thought it would be nice if there was something connected with the UGA.

Mr. Wright added that many areas in the city still do not have sidewalks (near HBP on Frederick Street for example). In many instances, a sidewalk starts out on one side of the street and then switches over to the other side, which makes it difficult for pedestrians. Ms. Maher asked if the commission wanted to comment to the County about providing a continuous sidewalk stretch along the Dual Highway. Mr. Gysberts added that Jefferson Street is also an issue for pedestrians. Ms. Maher stated that Jefferson Street would be difficult because it is an open section road at that point, however, it is worth raising the issue. The Dual Highway is a priority for the City, but the County has other priorities. Sidewalks promote the health, safety and welfare of all the citizens. (As a side note, Mr. Wright stated that SHA is frowning on curbs because they collect water and do not allow it to flow into water retention areas, just to streams. The SHA would like to return to open section roadways.)

- Mr. Wright asked if there are any projects proposed that address future traffic patterns. Ms. Maher stated no projects are proposed for FY 2013, just maintenance-type projects. No major road projects are proposed.
- Mr. Gysberts asked about the status of the road over Antietam Creek. Mr. Brubaker stated that the City lobbied for funding, but he was not sure whether the City got the money. Currently the bridge is in the county; the City is trying to cooperate but there needs to be an annexation or revenue sharing. Mr. Brubaker was not aware of any major progress on this issue. The County has not pursued any major state funds and there is insufficient funding in the County's CIP for this project.
- Northwest Connector - Ms. Maher noted that the owners are still trying to market the land.
- Concerning water quality, Ms. Maher noted that the City is continuing to make improvements to the wastewater plants per federal laws. Mr. Wright noted that the City is getting close to the available technology on nitrogen removal. Ms. Maher said the City is no longer subject to a cap from the state as to how much allocation it can give out. Regardless, the City is continuing to use the SCAP as a planning tool.

Concerning the multi-use facility, Mr. Stone asked how it relates as a general condition of the City Center. Ms. Maher stated that the philosophy is that the development will spark investment in the City Center, similar to what happened in Baltimore with the development of Camden Yards. The hope is that it will generate an interest in adjacent restaurants and pubs. Mr. Brubaker added that the idea is that the multi-use facility would serve as a catalyst for growth and development in the City Center. Mr. Gysberts stated that a stadium is mentioned in East End Special Areas Plan of the Comprehensive Plan. Mr. Stone noted that if the stadium is converted to a multi-use facility in the City Center that it will stimulate considerable discussion of what should be done with the east end of the city (abandoned pulp plant, the vacant land that used to be Washington County Hospital, the abandoned Municipal Stadium, The Venice Inn).

- MOTION:** (Stone/Gysberts) I'll move that the Planning Commission comment to the Mayor and Council that the commission found the FY 2013 Capital Improvements Program to be generally compatible with the 2008 Comprehensive Plan. The commission discussed the Ripken Report and the merits of the site for the downtown multi-use facility and the future of the old site, but the commission felt they had insufficient knowledge to render an opinion. The commission requests that the City and the County consider cooperative solutions to ensure continuous pedestrian networks along the arterials at the city's edges, particularly the gaps along the Dual Highway where jurisdictional boundaries change repeatedly and also along Frederick Street, Jefferson Street, and Pennsylvania Avenue.
- DISCUSSION:** None.
- ACTION:** APPROVED (ABSTAIN - Brubaker)

Election of Officers

- MOTION:** (Gysberts/Wheeler) I move that we maintain the status quo (D. Wright, chair; J. Stone, vice chair).
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

Land Management Code - Review of Second Draft

Mansion House Apartments - Based on the direction of the commission at the last meeting, staff clarified the Mansion House language. References to stacked apartments were removed.

Owner - Staff will be reviewing the definition of "Owner" later this week. Mr. Bockmiller asked that if he cannot get the matter resolved by next week that it proceed to public review as written, after which time recommendations can be made as to the proper wording. The goal is to have the Mayor and Council hold its public hearing prior to the new administration taking office. Mr. Stone countered that the definition should not be changed at all for the public review. After discussion, the commission asked Mr. Bockmiller to discuss this further with the City Attorney and possibly have the City Attorney attend the next meeting.

Page 2-7, 2., a. - Staff added language that states the Mayor appoints members to the Board of Zoning Appeals.

The commission began reviewing new material on Page 4-25, Mixed Use Districts.

Page 4-31, 8 - The title is wrong; it should be Section I.3., not I.2.

Page 4-49, 1., c. - Add a space after the comma in the second line.

Page 4-52 and Page 4-53 - There are two section labeled as "b."

Page 4-53, b., (2) - ". . . of this Ordinance" should be ". . . of this Article."

Page 4-55, g., (1) - The last sentence should be deleted.

Ms. Wheeler noted that staff should go back and delete embedded editorial notes.

Page 4-59 - Correct the alignment issue in the Dimensional and Design Requirements chart (one of the check marks should be moved down a row). In the chart, under (a), [I], delete the first four words to read "Ground-mounted type."

Page 4-66, (4) - "Ordinance" should be changed to "Article."

Page 4-66, j., 1. - Change to fifteen (15) acres to five (5) acres.

Page 4-68, (4) - The third paragraph should read "The Mayor and Council may authorize deviations".

Page 4-69 - "Design Requirements" needs to be bold text.

Page 4-70 - Add a period at the end of the last line in Subsection c.

Page 4-72, (4) - Delete "said" at the end of the first line.

Review ended at this point. Discussion will pick up at Section K, Supplementary Regulations, at the special meeting scheduled for May 2, at 4:00 p.m.

Mr. Bockmiller informed the commission that the draft Floodplain Management Ordinance is very similar to what is already in place. Only three items need to be discussed when reviewing that section.

**Planning Commission
MINUTES - Regular Meeting**

**April 25, 2012
City of Hagerstown, Maryland**

Adjourn: It was moved and seconded that the meeting adjourn at 9:10 p.m.

5/9/2012
Date

DC Calhoun
Debra C. Calhoun - Secretary