

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, May 28, 2014, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, C. Coleman, J. Stone, 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. **(NOTE: Planning Commission revisions are indicated in red text.)**

**REGULAR MEETING**

**Roll Call.**

All commission members were present with the exception of D. Miller.

**Approval of Minutes.**

There were no minutes ready for approval.

**North Market Plaza – Southeast Corner of Salem Avenue and Broadfording Road, Site Plan, Case No. ZS-2013-03 and Forest Conservation Plan, Case No FC-2008-03.**

Mr. Wright noted that the case should be referenced as the Southeast Corner (agenda originally showed northeast corner). Mr. Coleman recused himself from the discussion since his employer is involved in this project.

Staff Report: (Staff report in meeting file.) This site plan is for the northern half of the Broadfording Road development area that is shared with Bowman Development. The area of this site plan is bounded by Salem Avenue to the north, Garland Groh Boulevard along the west, the southbound ramp to I-81 to the east, and the under construction Market Way and Bowman’s holdings to the south. The property is 6.68 acres in size with the following proposed improvements:

<b>Convenience store with canopy-covered gas pumps and car wash</b>	8,394 square feet
<b>Freestanding retail building</b>	10,530 square feet
<b>Freestanding restaurant building</b>	6,500 square feet
<b>210 parking spaces</b>	200 are required

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

Access will be provided by a new public street driveway entrance from Garland Groh Boulevard along the southern edge of the site; a right-in, right-out entrance onto Garland Groh Boulevard; and an internally shared access across the Bowman property to the south that when developed will allow access to what is now Hollyhock Road and the Shoppes at Hagerstown. There will be no direct access onto Salem Avenue or the I-81 ramp.

The applicant requested six landscaping waivers (copy of requested waivers is in the meeting file). These waivers were requested due to the evolution of stormwater management design (water quality facilities will be designed with aesthetic considerations), the nature of the use (convenience store/gas station) regarding the use of landscaped islands, and the use of trees along the I-81 ramp due to the location of a retaining wall and the desire to not allow tree roots to undermine the retaining walls.

This project is affected by compliance agreements regarding a violation of the Forest Conservation Ordinance from 2005. In anticipation of development, the applicant cleared the property and removed almost all of the trees on the site. The arrangement to resolve the issue involved:

- Creating a forest stand delineation based on best available air photographic evidence of the stands as they existed prior to the site being cleared;
- Payment of a fine to the City of Hagerstown in the amount of 20 cents per square foot for the amount of forest destroyed below the break-even point of 1.29 acres, which amounts to \$11,238.48 (developer paid this fine in 2008); and
- Upon development of the property, the developer will be responsible for full compliance as it relates to that development, in the form of fee-in-lieu and no credit for street trees planted will be accepted.

The Planning Commission reviewed and approved the above conditions on March 12, 2008.

The planting requirement for this development is 104,544 square feet. At 30 cents per square foot, the fee-in-lieu contribution will be \$31,363.20. No credit for street trees will be considered. Street trees located outside of the right-of-way will require an easement.

The developer plans to subdivide this parcel at a later date, separating the three uses. The site has been designed to essentially comply as if they are currently three separate lots. The applicant is advised that a plat is required and approving this plan in no way implies that the subdivision will be approved.

The site plan was routed to the review agencies and all agencies have approved the plan, except for the Fire Marshal, the Water Division, Wastewater Division, and Planning and Code Administration Division. Staff made the following recommendations for approval:

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

- Recommended approval of the forest conservation plan.
- Recommended approval of the site plan, contingent upon satisfaction of any outstanding comments;
- Recommended approval of the requested waivers with the comment that the Sheetz convenience store on Eastern Boulevard was granted similar waivers when it was developed several years ago.

Commission/Applicant Discussion: Dave Trostle of Frederick, Seibert & Associates, engineer for the project, discussed the landscaping waivers being requested. Three of the six requested waivers are for the convenience store site which is concrete. There will be no curbing and as a result they increased the amount of landscaping in the front to compensate. Along I-81 no landscaping is being proposed along the drive aisle since there is a retaining wall and tree roots could compromise the wall. In addition, there is an existing natural buffer in this area.

The stormwater management pond cannot be located along a road. The design of the pond will resemble a landscaping bed rather than a stormwater management pond. Mr. Brubaker was concerned about the starkness of the site as a result of no landscaping near the convenience store. Mr. Trostle said with all the vehicle movements on the site, landscaping beds get run over and present tripping hazards to pedestrians on the site. The same waivers were approved by the commission for the Sheetz store on Eastern Boulevard. Brad Fulton, developer, added that landscaping beds attract trash and cigarette butts. Mr. Wright asked Mr. Fulton if he would consider adding three or four substantial planters with pine trees planted in them around the convenience store. Mr. Fulton indicated that Mr. Wright's request did not seem to be unreasonable and he would be amenable to three or four planters around the store. Mr. Trostle indicated they would study the site plan to find a location near the building that does not have windows. Commission members were satisfied with delegating review of the planter locations to staff.

Mr. Trostle stated that his firm studied pedestrian movement on the site(s) and decided that sufficient walking surfaces have been provided; therefore, no sidewalks are being proposed for the south side of the public road. Mr. Wright believed that sidewalks should be provided on the south side of the public road since people are not as logical as engineers. Mr. Trostle stated that there will be another opportunity to require sidewalks when the Bowman site is developed. Sidewalks could be required on the west side of Garland Groh when the properties on that side of the road are developed. Right now there is a right-of-way acquisition issue.

Mr. Brubaker would like to see a traffic signal at Middleway Drive and Garland Groh Boulevard. Mr. Trostle argued that by law they cannot just install a signal—it needs to be warranted first. He added that AC&T wants the light, too, but the City Engineer will not allow it until the traffic counts warrant a signal. Mr. Trostle added that all conduit for a light has been installed. Mr. Bockmiller explained the warrant process. The project must meet strict mathematical tests in

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

order for a traffic signal to be warranted. Mr. Brubaker wanted to be on the record that a traffic signal should be installed by the time the convenience store opens. Mr. Wright stated that he wants the sidewalk on the Bowman property to be installed. Mr. Trostle said the sidewalk in front of Bowman’s property will be installed when that project is developed. Mr. Brubaker also had concerns about the City’s responsibility to maintain the stub beyond the end of Middleway Drive. Mr. Trostle indicated that the ending point of the right-of-way was negotiated to end at that point.

Regarding the Forest Conservation Plan:

**MOTION:** (Stone/Thomas) So moved (approval of the Forest Conservation Plan).  
**DISCUSSION:** None.  
**ACTION:** APPROVED (ABSTAIN – Coleman)

Regarding the site plan waiver requests:

**MOTION:** (Stone/Wheeler) I’ll move that we approve the waivers that have been requested by the developer.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (ABSTAIN – Coleman)

Regarding the site plan:

**MOTION:** (Wheeler/Thomas) I move approval of the site plan with conditional approval from the Water and Wastewater Divisions, as well as the addition of planters to be agreed upon with staff around the C building.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (ABSTAIN – Coleman)

**West City Elementary School – 12615 Sedgwick Way, Site Plan,  
Case No. ZS-2014-02 and Forest Conservation Plan, Case No. FC-2002-03.**

Staff Report: (Staff report in meeting file.) This site plan is for the construction of a new elementary school on a 16.58-acre parcel zoned RMED with a PUD Overlay. The PUD was amended to permit a school at this location. A final plat was recorded for this lot in 2006. The new elementary school will be 48,750 square feet with a future 16,683 square foot addition indicated on the site plan. At a previous meeting the Planning Commission determined that 125 parking spaces would be required for this use; the site plan shows 137 spaces. Bus access will be off Buell Court. Automobile access will be off the traffic circle onto Sedgwick Way, which is a

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

private road. A hard-surface play area, two overlapping playfields, two tot lot areas, and an alternate tot lot area are shown on the plan.

The concept plan for the stormwater management was approved by the commission in March 2014. This plan was reviewed by the Plan Review Committee on March 18 of this year.

The site complies with all landscaping standards, however, the developer is proposing an “alternative plan” to use a water quality feature and its requisite plantings in lieu of landscaping along the rear bay of parking adjacent to Sedgwick Way. Since plantings are included in this plan and no spaces face Sedgwick Way in this area, staff endorsed the proposal.

While reviewing this project staff discovered that two forest retention areas totaling 0.25 and 0.28 acres in area each and located on an adjacent property were removed for the construction of the regional stormwater management facility. The facilities are shown on the easement plat for this development recorded in the early 2000s. The trees in these retention areas appear to have been removed long ago. One is located in what is now the stormwater management facility. This escaped detection during the review of the final plat in 2006, and the project engineer told staff that it also escaped the Alta survey due diligence on which they create their drawings.

To resolve this issue, the developer is proposing that 1.06 acres of this project’s street tree credit be used to offset the loss of the 0.53 acres of retention at a 2:1 ratio. Since forest conservation was handled regionally for this development, the street trees are not already encumbered by inclusion in a plan to comply with the Forest Conservation Ordinance. The street trees total 1.2 acres of coverage which more than meet this requirement. This strategy is advisable and is the only reasonable approach since: 1) the adjacent property is owned by the Hager’s Crossing Homeowner’s Association which has limited resources to address the issue; and 2) one of the easement areas is in what is now a regional storm pond. Replanting within the easement is not possible.

The site plan was routed to all applicable review agencies. At the time the staff memo was written, all agencies had approved the site plan with the exception of the Wastewater Division, the City Engineer’s Office, and the Planning and Code Administration Division. The Wastewater and Engineering comments consist mostly of minor drafting revisions. Mr. Bockmiller listed the following Planning and Code Administration comments:

- The applicant will prepare an exhibit for the City to use to abandon the two forest conservation easement areas in and around the stormwater management facility;
- The applicant will prepare the requisite documents for a street tree easement on the street trees that are not within public street rights-of-way; and
- Cut sheets for the pole lights shall be provided to the Planning staff for review by Planning and the Police Department. Four existing lamps along the front of the site

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

provide lighting. The Police Department is concerned about the lighting in some portions of the site and recommended that lighting provided be at least at the half-foot candle level.

Staff recommended approval, contingent upon the noted outstanding comments.

Commission/Applicant Discussion: Erin Wolfe of the Hager’s Crossing Homeowners Association (HCHOA) asked if the commission would consider recommending that a Memorandum of Understanding be entered into between the homeowners association and Washington County Public Schools. The stormwater management pond is on Hager’s Crossing property and the HCHOA would like to work out shared responsibilities, shared uses of facilities, and other mutually beneficial details (see HCHOA memo in meeting file).

Chad Criswell of Washington County Public Schools confirmed that the school board has met with the homeowner’s association to discuss plans for the new elementary school. They plan to make a presentation to the entire HCHOA. At that time they plan to have discussions on beneficial uses between the two sites. When the school board bought the property the issue of maintenance was shifted entirely to HCHOA. Mr. Criswell said they plan to discuss a cooperation plan and intend to continue discussions with the homeowners association regardless of whether the Planning Commission recommended a Memorandum of Understanding. Mr. Brubaker stated that if a recommendation is made the emphasis should be on the long-term efficacy of the stormwater management pond. Mr. Bockmiller added that maintenance of Sedgwick Way should be covered as well. Mr. Stone noted that this matter should have been caught in the preliminary stages of the development. If the commission had known about this sooner the commission could have added some conditions. Mr. Stone believed the time had passed—the best the commission could do is note that it is a good idea, but that is about it. Commission members agreed that a letter should be written urging cooperation between Washington County Public Schools and the Hager’s Crossing Homeowners Association with regard to matters relating to Sedgwick Way and maintenance of the storm water management pond.

Regarding the forest conservation plan:

- MOTION: (Thomas/Stone) I’ll make a motion to approve the Forest Conservation Plan with the proposed amendments.
- DISCUSSION: None.
- ACTION: APPROVED (Unanimous)

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

Regarding the site plan:

**MOTION:** (Brubaker/Wheeler) I'll move approval with the conditions: satisfactory resolution of the City Engineer's concerns, satisfactory resolution of the outstanding Wastewater conditions; and satisfactory resolution of lighting in the parking area.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

Regarding a letter to the Hager's Crossing Homeowners Association and Washington County Public Schools encouraging them to formalize an agreement for the future for maintenance of the stormwater management pond and Sedgwick Way:

**MOTION:** (Stone/Brubaker) I move that we write such a letter focusing on the desirability of both groups working together on the stormwater management issues and on the common maintenance of Sedgwick Way.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**Review of Proposed Amendments to Land Management Code (2014).**

(Staff memo is in the meeting file.) Planning and Economic Development staff have been discussing amendments to the Land Management Code which would address goals to improve the quality of life and economic vitality in the city and address issues staff has been experiencing in administering the code since the 2013 amendments. For review purposes, the amendments will be divided into three chunks. The first package is a group of unrelated amendments to address issues that have arisen in the last several months in administering the code and to address state changes to the Forest Conservation Act. The second package, scheduled for review by the commission on June 11, contains proposed revisions to sign regulations. The last package is tentatively scheduled for review on June 25. At that time Economic Development staff will join Planning staff to present amendments that would address issues of concern in the City Center and to enhance efforts to improve the economic vitality of the City Center. It is staff's hope that everything will be ready for a public review meeting on July 30.

Following are comments on Package 1 of 3, 2014 Land Management Code Proposed Text Amendments:

Page 1, No. 1 – Article 4, Zoning, Section Z, “Use Chart”:

Staff’s proposed amendments are based on amendments that were made to Baltimore County’s zoning regulations. There was debate on the merits of prohibiting certain land uses in the CC-MU that are viewed as undesirable and contrary to the vision for downtown. There appeared to be a ~~consensus~~ **majority view** that hookah lounges are an emerging entertainment use, are comparable to drinking places, and are not inappropriate for the CC-MU zoning district. Commission members expressed the opinion that operational issues for specific businesses should be worked out between the proprietor and the Hagerstown Police Department. There appeared to be support for controls on operations, such as hours and separation from other hookah lounges. Suggestions offered for hookah lounges include not allowing them to remain open later than drinking places or have more limited hours in protected zones and later hours in other zones. Commission members asked why tobacco shops were included in the amendment.

Page 1, No. 1 – Article 4, Zoning, Section Z, “Use Chart”:

Check cashing services. When questioned why this amendment is being proposed, staff indicated that when these operations start popping up it is an indication that your downtown is on a downward slide. Debate ensued on whether prohibiting certain uses that suggest urban decay from locating downtown is elitist or whether it is an attempt to facilitate implementation of the vision for downtown. There was a ~~consensus~~ **majority view** to limit this use to outside the CC-MU to the CG (Commercial General) and CR (Commercial Regional) zoning districts.

Page 1, No. 1 – Article 4, Zoning, Section Z, “Use Chart”:

Apartment buildings. This amendment would address buildings that are already nonconforming uses and would make them conforming uses. The amendment would apply only to buildings built as multi-family, with additions up to March, 1977. It would not apply to large homes that have been converted to apartments. Mr. Bockmiller will check definitions of apartment buildings to make sure there is no discrepancy.

Page 2, No. 1 – Article 4, Zoning, Section M, “Maintenance, Expansion, Expiration, Confirmation, and Change of Nonconforming Use”

Nonconforming uses. This amendment includes a list of uses that could not be considered by the Board of Zoning Appeals for changes on nonconforming uses. There was unease among some members of the commission of the idea of singling out land uses that are deemed undesirable. Staff noted that most jurisdictions do not allow a change in a nonconforming use to another nonconforming use.

**Planning Commission  
MINUTES – Regular Meeting**

**May 28, 2014  
City of Hagerstown, Maryland**

**North Market Plaza – Southeast Corner of Salem Avenue and Broadfording Road – Continued.**

Dave Trostle of Frederick, Seibert & Associates, added verbal documentation to the record about the traffic signal at Garland Groh Boulevard and Middle Way (copy of email in meeting file). In July of 2013 a copy of the traffic study was submitted to the City Engineer who determined that the warrant did not **meet** federal standards for traffic signals. Traffic counts will be checked again once the gas station has been constructed and is operating.

**Adjourn.**

It was moved and seconded that the meeting adjourn at 9:05 p.m.

9/10/2014  
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Approved

  
\_\_\_\_\_  
Debra C. Calhoun - Secretary