

**Planning Commission
MINUTES - Workshop Meeting**

**September 10, 2014
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 4:00 p.m., on Wednesday, September 10, 2014, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, C. Coleman, D. Miller, 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.

Approval of Minutes – May 28, 2014 – Regular Meeting; and June 11, 2014 – Workshop Meeting.

May 28, 2014:

Ms. Wheeler requested that on page 8, in the first and second paragraphs, that the word “consensus” be removed. She objected to the use of “consensus” since it implies agreement and harmony and that was not the case with that discussion. Insert “majority view” instead.

On page 9, first paragraph, add “meet” to the second to the last line (should read “. . . the warrant did not *meet* federal standards . . .”)

MOTION: (Thomas/Stone) Motion to accept as corrected.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - Miller)

June 11, 2014:

MOTION: (Thomas/Wheeler) So moved (for approval of the minutes).

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - Brubaker)

Collegiate Acres – Open Space, Final Plat, Case No. S-2014-05.

Staff Report: (Staff Report in meeting file.) The purpose of the subdivision is to divide the existing open space lot for the purpose of transferring most of it to the City of Hagerstown for a new municipal park, which will be open to the public, not just residents of the development. The parking lot will be owned and maintained by the homeowners association.

All review agencies have provided approvals, with the exception of the City Engineer. There is an error on the second page of the plat that must be corrected before they can give full approval. Staff recommended that plat be approved, contingent upon satisfaction of the City Engineer’s comments.

The municipal park will comprise 2.09 acres and the remainder will be open space (predominantly used as a parking lot) retained by the subdivision. The City Council has agreed to accept the area as a municipal park from the developer which has been improved with tot lots built in accordance with City standards. Mr. Bockmiller noted that the parking lot has already been a part of the design of the overall development, however, typically, parking is not included in open space calculations.

Commission/Applicant Discussion: Mr. Thomas asked if the park will be open to anyone. Mr. Bockmiller said yes since it will be a municipal park. The parking lot area will be retained by the homeowners association, and Mr. Bockmiller said there will be an easement on some of the parking spaces to allow nonresidents to park while using the park. It was noted that pedestrian access is also available from Terps Boulevard and Yellow Jacket Road. No parking is permitted along Terps Boulevard, but there is intermittent parking along Yellow Jacket Road. Tony Taylor of Frederick, Seibert & Associates stated that some of the parking spaces in the lot will be set aside for public use and others will be designated for use by residents of the development.

MOTION: (Miller/Thomas) So moved (for approval of the final plat).
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Light Business Park – 1161 Omega Drive (Lot 3) – Temporary Parking Lot, Site Plan, Case No. SA-2014-06.

Staff Report: (Staff Report in meeting file.) The site plan was processed as a minor site plan due to the limited nature of the improvements and its intent to address a short-term parking problem. The disturbance is over 5,000 square feet, which requires Planning Commission review and approval. By way of explanation, Mr. Bockmiller stated that a parking problem has developed on Omega Court as a result of the uses that occupy Lots 1 and 2 (day-care and medical offices) and the impending completion of improvements on Lot 4. Visitors to both of the existing businesses are beginning to park on the cul-de-sac.

The proposal is for the construction of a 42-space parking area along the property lines adjacent to Lots 2 and 4, reserving the northeastern portion of the property for the possibility of future development. In previous reviews of concepts for development of this lot, the Planning Commission has had no objection to the developer's intention to provide parking for Lot 4 on this property within the buffer area. The improvements would meet all design requirements. The parking area and its peripheral improvements (sidewalks, landscaping, etc.) occupy about 14,863 square feet.

Parking surface for the temporary lot would be gravel, but the other improvements, such as curb and gutter along the exterior of the parking areas, would be constructed to current standards in anticipation of a future site plan for the development of this property. When developed, the curbs and gutters would be incorporated into the final design.

The owners of Lot 2, which is developed by a medical office, are in negotiation to purchase this lot, and are weighing options whether to build an addition to their existing building that would push their operation onto this lot, or build a second, separate building on the lot.

The plan was reviewed and approved by all agencies, with the exception of the City Engineer and the Planning and Code Administration Division. Planning would request that a time limit of 18 months be placed on the temporary parking lot. After 18 months, if a site plan for development of the property or a permanent parking lot has not been submitted, the parking lot improvements must be removed at the developer's expense.

Staff recommended approval of the minor site plan.

Commission/Applicant Discussion: Mr. Wright questioned how it would help the parking situation if the medical office on Lot 2 expands. David Trostle of Frederick, Seibert & Associates, Inc., stated there is an existing problem with cars parking on the cul-de-sac. If the pediatric office decides to expand, all the improvements would be reconsidered and redesigned; however, that is all speculative at this point. The owner of Lot 2 is not his client, therefore, he cannot respond as to their plans. Mr. Bockmiller noted that there is no violation at this time. All sites currently comply. Occasionally there is a use that is a heavier user of parking than the parking provided. All of the temporary parking will be gravel. The site is being designed to current standards for the permanent improvements that will be necessary.

Mr. Wright asked if the developer would be opposed to constructing a fence between Lot 2 and the gravel parking lot closest to them with an opening halfway down and a macadam walk to safely channel pedestrians to the office building. Mr. Trostle explained that at first employees will be required to park in the overflow lot so patients can park closer to the building. Mr. Trostle's initial reaction was that a walkway would not be an issue for the developer. There are existing shrubs in this location, and an opening could be made in the shrubs and gore hatch on both sides with a walkway through the shrubs, which would help to keep the cost down. Mr. Wright was agreeable as long as there is a physical barrier that channels pedestrians to one spot to cross. At the request of Mr. Stone, Mr. Wright summarized his comments as follows: the commission would ask the applicant to consider one pedestrian access between the gravel lot and Lot 2.

Mr. Trostle indicated that the parking spaces will be painted on the gravel.

MOTION: (Stone/Brubaker) I make a motion that we approve the site plan, subject to the conditions recommended by the Planning Commission, as well as the Engineering condition, as well as the condition that there be appropriate access means provided between the two parking lots so the people do not cross over in just any place.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Board of Zoning Appeals Agenda – September Hearing.

At the recommendation of staff, the commission next considered the Board of Zoning Appeals agenda for September 17.

(BZA agenda in meeting file) Jill Frick, Economic Development Director for the City of Hagerstown, stated that the manufacturer is a chocolatier with the idea of production from bean to final product. Use would include some Arts & Entertainment related components, such as a potential café, factory tours, and possible candy-making classes. The owner has identified any odors emanating as a result of production as mild. It could be compared to odors produced by a restaurant.

Mr. Thomas asked if the wastewater would be processed. Ms. Frick indicated that she could get that information for the commission. He would not have any objection as long as there is no odor and no impact on wastewater. Mr. Miller noted that there are performance standards for manufacturing. Mr. Bockmiller stated that with special exceptions, the presumption is that the use is permitted in the district; however, the Board of Zoning Appeals must evaluate the use as to whether the use is any worse at that particular location than it would be in a typical location in the same zoning district. Given the nature of the Antietam Paper building, and the fact that there are not a significant number of adjacent residential uses, the argument could be made that this is the best location in the entire CC-MU zoning district for this use.

Mr. Stone said he believed it would be appropriate for the Planning Commission to make a favorable comment on this application. He asked staff to draft a letter saying that the Planning Commission is particularly fond of this in light of the overall purposes of the Comprehensive Plan. Mr. Wright asked staff to write a letter encompassing the commission's favorable comments on the application.

Land Management Code Text Amendments: CC-MU Packet and Supplementary Miscellaneous Packet.

(Memo and proposed amendments in meeting file) Review began with Package 3, which is all new material related to the City Center-Mixed Use District. Ms. Maher noted that John Lestitian, Director of the Community and Economic Development Department, and Jill Frick, Economic Development Director, were present to answer any questions the commission may have.

Package 3 of 3:

Page 1 – Use Chart:

- Retail and Wholesale Trade – added clarification to include retail bakeries and retail confectionaries.
- Drinking Places – added a reference to “brewpubs” both within and outside the Smart Growth A & E District to make it clear they are a permitted use.

Page 2 – Use Chart:

- Restaurants – corrected the NAICS numbers.
- Light Manufacturing – takes the cap out of the definition and puts them in the Use Chart; storage of materials must be indoors.
- Bonding – several commission members were concerned about excluding bonding companies from the CC-MU district, as proposed by staff. Ms. Maher indicated that a bail bonds office recently opened up at the corner of North Burhans Boulevard and West Franklin Street. These days much of their business appears to be done via telephone and the storefront is more for advertising.

Pages 2 and 3 – Article 4, Section E, Subsection 1:

Ms. Maher said these proposed revisions were developed to address goals from various plans to protect and nurture high-intensity uses in the City Center that attract pedestrian traffic which will support downtown businesses and contribute to the vitality of the downtown. Suggested revisions include revising the Purpose statements in the CC-MU and the N-MU districts, add “while protecting storefront areas for certain high-intensity uses that attract pedestrian traffic which will support other downtown businesses and contribute to the vitality of the downtown.” Related to that, limitations would be added to the permitted and special exception uses requiring storefronts to be occupied by high-intensity retail, restaurants, bakeries, retail confectionaries, brewpubs, art galleries and studios, fitness and recreation sports centers, and other uses that attract pedestrian traffic (page 3). Uses that are not referenced in the list would not be permitted in storefronts, even if they are permitted in the Use Chart. The intent for buildings with storefronts is to maintain the space for mercantile-type activity instead of the conversion of storefront spaces into offices. There will be incentives to help building owners find tenants.

Several commission members did not agree with staff’s proposed solution. Mr. Wright believed the new language would offer landlords a smaller base to attract tenants. Mr. Stone felt that if a building with a storefront became vacant and a landlord had an opportunity to rent to an office tenant, the landlord should not have to wait until a retail tenant came along. There are several vacant storefronts now that were once offices. Some commission members wanted the word “permitted” in the fourth paragraph on page 3 changed to “encouraged.”

Mr. Lestitian said from an economic development perspective, the use of the storefront spaces for offices is not helping. Currently there is no restriction on storefront uses and the storefronts across the street from City Hall have been vacant for some time. He contended that it is not the storefront, but the condition of the storefront. Available, decent buildings are being occupied by low-intensity uses.

The Pop-Up Shop event was very successful. Downtown needs uses that will draw people to it. When offices locate in storefronts, there are lost opportunities for retail. You need to have feet on the street. Mr. Stone argued that if people wanted to locate here the owners and tenants would make the investment to occupy. If that is not happening it is because of too much competition. It is not a lack of available, unused retail storefront space downtown.

Ms. Wheeler said what she saw from the Pop-Up Shop event was the impetus to get businesses to try out a downtown location. It's a matter of will people take that risk. More businesses will be inclined to locate downtown by clustering and generating foot traffic. The idea is to have office space in other spaces, not to push anyone out.

Ms. Frick added that retail follows pedestrian traffic. Urban Partners recommended a number of strategies to increase foot traffic. There is a need to protect the traditional retail spaces that will be ready when the foot traffic develops.

Mr. Brubaker cautioned that the City needs to be careful about the list of permitted uses since there is no way to know what uses might be excluded in the future. Also, there could be issues with defining what "internally oriented space" means. Mr. Brubaker agreed with the thrust of the amendment to this section but felt it needed to be clarified. Mr. Wright felt the proposed language would mess things up further. Encouragement with promotions and grants to help businesses move in would be beneficial. He felt the staff proposal would encourage empty storefronts.

Citing 60 West Washington Street (former CVS building), Mr. Lestitian said the City created a storefront space, with institutional uses in the back and a business incubator. Currently the storefront is being used as an office for the Downtown Movement to promote the Pop-Up Shop initiative. He stated there is a finite number of storefronts available.

Mr. Coleman agreed with Mr. Brubaker, Ms. Wheeler, and Mr. Lestitian. Storefronts are an endangered species and something must be done to protect them. In conjunction with a long-term plan, the City needs to have storefronts and offices. In the long-term if you get foot traffic there might be opportunities to get better rent for retail. Mr. Coleman was also concerned about the list and its wording. For example, drinking establishments are not on the list.

Mr. Stone asked why the vacant retail storefronts are not being occupied. It would make sense if retail is being pushed out because there are too many offices. He asked how limiting where offices can locate will make retail uses locate downtown. Mr. Lestitian stated there are many vacant retail spaces in need of work. Many times when a prospect inquires about retail space there are limited spaces that can be shown. Mr. Miller did not believe the downtown was going to get ahead by limiting possible uses. Whatever can be found should be allowed to occupy a space.

Mr. Thomas felt that it would be difficult for property owners to obtain financing for properties downtown since the area is not doing well. Ms. Maher noted that the City has a number of incentive programs to help owners renovate their buildings for items that meet the City goals. There is the Partners in Economic Progress Program (PEP), the First Third Grant Program, and staff has been working with a number of downtown property owners who are interested in making investments. Mr. Lestitian added that the City's grants are up to \$250,000.

Mr. Wright asked when buildings need to have sprinkler systems. Mr. Lestitian stated that it depends on several factors such as square footage, the use of the building, change in the use of a building, etc. In renovation work, the initial cost for sprinkler systems is the ground floor; the prices drop as you go up. Mr. Wright stated that the requirement for elevators to the upper floors would add to the cost of a project.

A poll of commission members had two in favor of the amendment (Mr. Coleman and Ms. Wheeler) and three opposed (Mr. Miller, Mr. Stone, Mr. Wright). Mr. Thomas was opposed if the language remained restrictive. Mr. Brubaker stated he could not vote since amendments would ultimately be going to the Mayor and Council for action. (Mr. Miller left the meeting.)

Page 3 – Article 4, Section E, Subsection 10 (Mixed-Use Buildings):

This amendment would require that storefronts be retained on existing buildings; newly constructed commercial and mixed-use buildings must contain storefronts with a minimum depth of 40 feet. Mr. Stone felt this requirement would eat up too much space, especially with smaller buildings on smaller lots. His concern is with existing buildings.

Mr. Lestitian suggested that staff prepare a report on the on the number of storefronts in the downtown area. Mr. Stone felt that downtown property owners should be made aware of the proposed changes to get their input. Mr. Coleman asked about a list of special exceptions.

Amendments Addressing Public Works Projects and Economic Development Projects in the Historic District Commission (HDC) Review Process:

Mr. Bockmiller stated that the proposed amendment would allow an owner to apply for a Certificate of Hardship without having to have been denied a Certificate of Appropriateness first. In addition, the HDC would not be involved at all if a building is condemned by the Chief Code Official. Mr. Wright commented that Subsection 4.a. on page 2 should be reordered.

The HDC's primary responsibility is to protect historic resources per state language. The consideration of other public benefits is not usual for the HDC. Recently, a process was drafted to address major economic development opportunities. Currently there are no guidelines for public benefit hardship reviews. With the proposed new process, the HDC would be getting guidance from the City administration about whether a project is deemed a major economic development opportunity. This amendment would provide the HDC with official feedback from the City and would give them something to weigh proposals against when considering public benefit hardship cases. In the future, the City will develop application standards through either policy or through design guidelines as to documentation.

Mr. Stone asked who determines whether a building is a contributing resource. Mr. Bockmiller stated that a survey was done in the 1980s and an update was done last year. A letter ranking system between A and G is used, with A buildings being the most significant. Most of the buildings downtown are B resources. A majority of the buildings downtown could be considered for this process.

Michael Gehr, chair, Hagerstown Historic District Commission, stated that a subcommittee of the HDC has been working with this document for several years. It consists of a series of compromises to get to this particular point. The HDC wants to protect historic resources, but not to say that the commission would not consider demolitions for some of these buildings if there was a major project. Some economic development projects may need two or three properties. It is not the intent of the HDC to be an obstacle to what is going downtown, but it does not want to contribute to a streetscape with major holes.

This document sets up a process for major projects to be reviewed by the HDC on its merits. For any demolition, the HDC would be very interested in what would be placed on the location of a demolished building. Members do not want a building to come down on a whim. If a major economic development opportunity would present itself, such as hundreds of jobs coming downtown, if it fits into some of the established city programs. Overall the HDC is comfortable with the document and hopes it spurs some action with the developers.

Mr. Wright pointed out a very long sentence on page 1 that begins at the end of the third line in the Major Economic Development Opportunity definition. Staff will reword it.

Mr. Brubaker asked if this gives the HDC stipulations or recommendations. Mr. Bockmiller stated that the City Attorney advised that submittal standards should be policy or inserted into the HDC's design guidelines. Changes to design guidelines need to be approved by the Mayor and City Council. Mr. Bockmiller noted that HDC decisions are based on the Secretary of the Interior's Guidelines.

Mr. Gehr stated that once a building is demolished, the HDC needs to see what is proposed for the replacement building. The replacement building still must have the proper massing, etc., to be certain it meets the design guidelines. Projects of that magnitude would require several meetings.

Mr. Coleman cautioned that the City may run into issues with projects claiming to generate significant pedestrian traffic. Someone could raise issues if a business would just be moving from one spot to another.

On Page 3, d., commission members felt the title is confusing. The language for Certificate of Appropriateness should be moved here, and the original language under "Approval" should be moved to another section. Staff will make that change

Commission members want to see this again.

**Planning Commission
MINUTES - Workshop Meeting**

**September 10, 2014
City of Hagerstown, Maryland**

Adjourn.

It was moved and seconded that the meeting adjourn (around 6:40 p.m.).

2/11/2015

Approved



Debra C. Calhoun - Secretary