

**Planning Commission  
MINUTES – Regular Meeting**

**November 12, 2014  
City of Hagerstown, Maryland**

**Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, November 12, 2014, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, D. Miller, and R. Thomas. The following staff members were present: K. Maher, Planning Director; S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.**

**REGULAR MEETING**

**Roll Call.**

Commission members J. Stone and J. Wheeler were absent.

Mr. Wright asked for an update on finding a new member to fill the Cullen Coleman's position. Ms. Maher indicated that the Mayor has interviewed several candidates. Currently, a replacement is awaiting Mayor and Council approval.

**Approval of Minutes – July 30, 2014 – Regular Meeting.**

**MOTION:** (Miller/Brubaker) I make a motion to approve.  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

**Bharat & Sons Estates, LLC – 1441 Wesel Boulevard, Sketch Plan for Stormwater Management.**

Staff Report: (Staff report is in the meeting file.) Mr. Bockmiller presented this case to the commission. The property is located on the southeast side of Wesel Boulevard. The applicant is proposing to remove an existing one-story office building and construct a retail building approximately 21,000 square feet in gross footprint. The property is 2.25 acres in size and is accessed by a common access driveway to the southern side property line. There is no direct access to Wesel Boulevard and none is proposed.

*Stormwater Management Approach:* As described by the Assistant City Engineer, Jim Bender, the proposed stormwater management strategy will rely on an underground detention storage facility to provide both quantitative and qualitative control. Given the highly impervious coverage of the site after development, very little space will remain at surface level to provide stormwater management controls. The existing drainage patterns at the site will be maintained; there are no significant environmental resources that will be impacted by this development. As a

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result, staff recommended approval of the stormwater management approach proposed by the developer for this concept plan. During site plan review, staff will encourage the provision of additional environmental site design facilities if space permits.

*Site Features:* To date, no forest stand delineation has been submitted; however, the concept plan shows that approximately one acre of the site is covered in forest. The proposal will result in the removal of these trees and compliance with the forest conservation ordinance would be via street trees in areas where they can be planted. The remainder will be met through a fee-in-lieu contribution. This approach has been regularly approved by the Planning Commission for commercial properties.

Mr. Bockmiller noted that topographically, the site appears to be the top of a knoll, with a sharp drop off to Wesel Boulevard, and a drop off in the unimproved wooded portion of the property. The applicant is proposing to construct retaining walls along Wesel Boulevard near the rear property line to form a more usable development area. There are no floodplains or large expanses of steep slopes. There is some evidence of rock outcroppings, and as the site is leveled for development, it is likely more rock will be exposed.

*Waivers:* Due to the location of the intended retaining walls, the applicant anticipates applying for landscaping waivers for these areas with the retaining walls, and there may be a few waivers requested for some interior design issues associated with the parking lot design. At this point, no design waiver requests have been received. Staff noted in its report that if and when waivers are requested, it would have no objection to the waivers along the rear of the property since it is undeveloped woodland. If a site plan were to be submitted for the adjacent tract, which is industrially zoned, the design standards for the adjacent property would require the installation of a 25-foot wide natural or landscaped buffer along the common property line. The existing woodlands serve the buffer need in the short term. A buffer installed as required on the adjacent property would address the buffering issue in the long term if and when that property develops.

Staff noted given the size of this property in relationship to its topography and the zoning district in which it is located (CR which encourages development of larger commercial facilities), some degree of accommodation of waivers would seem defensible in the development of this property.

*Other:* Although this is not a site plan, Staff noted that several parking spaces do not appear to allow sufficient space for backing out, and the logical “back out” movement is into other parking spaces that may or may not be occupied at any given time. This is a design issue that will need to be addressed at the site plan stage.

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Regarding the retaining wall, there could be some issues requiring waivers regarding planting trees at the base of the wall and landscaping above the wall. There will be a grass area near the building. Staff will recommend some type of landscaping in the front, even if waivers are requested.

Commission/Applicant Discussion: Mr. Thomas noted that the nearby El Rancho restaurant does not have landscaping in the front. Mr. Bockmiller pointed out that the El Rancho building was built prior to the landscaping requirement. Staff would recommend an accommodation of some type; but staff would not support waiving all requirements. Mr. Brubaker was concerned about the treatment of the retaining wall since Wesel Boulevard is a gateway into the City.

Mr. Bockmiller stated that the largest space in the proposed shopping center will be occupied by Harbor Freight which is a national tool chain. There would also be two or three smaller shops.

David Trostle, engineer with Frederick, Seibert & Associates, Inc., explained that water quality management will occur on site. Quantity would be handled by an existing pond across Wesel Boulevard. Water will run to the existing swale in the back and then travel under Wesel Boulevard. The culvert was designed for the 50-year storm.

Location of the trash enclosure will be near the road. Staff recommends requiring a masonry enclosure. Mr. Trostle noted that because of the topography, the enclosure will be elevated higher than the traffic on Wesel Boulevard.

Mr. Brubaker indicated that he would be willing to consider waivers when they come in; however, his main concern is the treatment of the retaining wall along Wesel Boulevard and landscaping to meet requirements as best as possible. Mr. Wright indicated that he had no issues as well as long as the engineer and the owner realize issues or concerns could be raised at the site plan stage.

Staff recommended a meeting before the site plan approval for the landscape plan. Other commissioners agreed with Mr. Brubaker's comments about landscaping and the retaining wall. There were no comments on the stormwater management treatment and no concerns about forest conservation issues.

**MOTION:** (Miller/Thomas) So moved (to approve the concept plan).  
**DISCUSSION:** None.  
**ACTION:** APPROVED (Unanimous)

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**Aschenbach-Hagerstown LLC – 17966 Garland Groh Boulevard – Proposed Mass Grading Plan, Site Plan, Case No. ZS-2014-03.**

Staff Report: (Staff report is in the meeting file.) Mr. Bockmiller presented this case to the commission. Under case number ZS-2007-10, the Planning Commission approved a site plan for the construction of a car dealership on approximately one-half of this site. The area was subject to an earlier forest conservation plan. A portion of the site for which improvements were not shown had not been addressed regarding forest conservation. The Planning Commission approved crediting all planned street trees for this site toward later compliance with the forest conservation ordinance when that portion of the site was submitted for development.

This site plan is for mass grading of the site to make it “pad ready” to better market the site for future development. No proposed buildings, improvements, landscaping or uses are planned at this time. The site is served by water and sewer. Access is via the Bulldog Federal Credit Union driveway.

All review agencies have approved the site plan, with the exception of the Planning and Code Administration Division. If only a portion of this site is proposed for development, Planning staff is requesting that a forest conservation plan be submitted for that portion of the site not previously addressed, regardless of whether that area is part of the proposed development area of that site plan; and the site plan signature block for the Planning Commission will be adjusted to read “Planner” instead of “City Engineer.”

Staff recommended approval, contingent upon satisfaction of the outstanding comments.

Commission/Applicant Discussion: Mr. Wright asked about topsoil piles. Billie Swailes, engineer with Triad Engineering, stated that when the grading is finished, the topsoil piles will be gone. Mr. Brubaker asked how the soil will be stabilized. Mr. Bockmiller stated that topsoil will be put back down and seeded. Street trees were proposed as part of the car dealership plan, but that did not pan out. The intent is to sell the property and build it out. Mr. Brubaker said the landscaping could be piecemeal if the lot is subdivided and sold off separately. He was concerned about how to avoid a muddy site. Mr. Swailes said the area will be planted with winter rye and overseeded with regular grass.

**MOTION:** (Brubaker/Miller) I will move approval with all the comments that the Planning Commission has put out, including the forest conservation planting.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**2014 Shopping Center Occupancy Study.**

Staff Report: (A copy of the study is in the meeting file.) Mr. Rohrbaugh reported on the results of his annual occupancy study of the 24 major retail shopping centers in Hagerstown and within the MRGA. The purpose of the study is to analyze current occupancy levels of each shopping center, to evaluate how these levels have changed over the last year, and to provide a summary of statistics and trends that may be useful tools for future land use planning and economic development.

To be included in the study, centers need to be over 40,000 square feet. Mr. Rohrbaugh's assessment was conducted during the months of September and October 2014. Occupancy levels of the shopping centers were determined using a variety of methods, including windshield surveys of vacant units, advertising brochures from shopping centers, GIS data, commercial real estate websites, and Washington County Permit data. Mr. Rohrbaugh noted one key difference from previous years' reports is a new Classification Factor of Shopping Centers (pages 8 and 9 of the report).

Highlights include:

- Occupancy rates are up (page 6). Occupancy rates at Hagerstown centers are at almost 91%. Shopping centers in Washington County stayed steady around 95%. Many of the centers are getting creative and reaching out to office users and other nontraditional shopping center users. Also, there has been a slight rebound in retail.
- Spirit of Halloween at the Long Meadow Shopping Center was a seasonal use and skewed the figures somewhat.
- Two shopping centers in Hagerstown saw a decrease in occupancy rates (Kenley Village and South End Shopping Centers). Washington County had three centers that had a decrease in occupancy rates.
- There are several centers in the MRGA that are 100% occupied, including five centers in Hagerstown and two in Washington County. This number has been increasing every year.
- Valley Mall occupancy went down in this study period, but will most likely go up next year with the new Noodles & Co.
- These are the highest numbers since reporting began in 2008.

Commission members commended Mr. Rohrbaugh on his work and encouraged him to pursue a press release on his findings.

**2015 Planning Commission Meeting Schedule.**

The commission had no changes to the proposed meeting schedule for 2015.

**Board of Zoning Appeals Agenda – November Hearing.**

The only appeal is for an expansion of a nonconforming use at Mike’s Tavern on North Prospect Street. The property owner would like to build a cooler addition and an outdoor smoking area on the south side of the building. This is a peculiar application because typically staff has based expansions one-for-one on what the use is. All expansions are limited to a 35% increase in the size of the nonconforming use. The footprint of this cooler addition and the deck almost doubles the footprint of the use. The applicant is calculating the parking lot area into the square footage of the nonconforming use which increases the square footage that it can be expanded and still meet the 35% maximum. Staff noted that this method of calculation has not been the standard practice, but there is nothing in the zoning ordinance that prohibits it. Mr. Bockmiller pointed out that if the standard method of calculating expansions was used it would reduce the size of the deck by half.

The nonconforming tavern is in a residential zoning district with a residence next door beside the proposed deck. Mr. Bockmiller has recommended to the Board of Zoning Appeals that if the expansion is approved, landscaping should be provided (to industrial standards) along the southern property line adjacent to the residence. In addition to the landscaping a six-foot wall or fence was included as a condition to help further screen the property from the adjacent residence. However, this will not be sufficient to protect the adjacent neighbor from loud bar patrons late at night. The enlarged deck will be 10 to 12 feet from the house and the bar is open until 2:00 a.m. on Friday and Saturday nights.

Commission members endorsed the staff’s recommendations and expanded upon it to include no outdoor music or amplification of any sort; and any outdoor lighting should be directed towards the bar to keep all external light on the bar’s property.

**MOTION:** (Thomas/Miller) I move to support the staff’s position and add to that position that there be no amplified sound, and all lighting needs to be contained inside the expanded area of the deck.

**DISCUSSION:** None.

**ACTION:** APPROVED (Unanimous)

**Land Management Code Text Amendments: Storefront Protection, HDC Hardship, and Supplementary Miscellaneous Packet (Postponed from October 29 Agenda).**

(Staff memos are in the meeting file.) This discussion is a continuation from the October 8 meeting.

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*Proposed Storefront Protection Zone Provisions and Map.* Minor changes were made since the last meeting, including:

- The affected area was reduced (see map in packet). Focus was narrowed down to storefronts that face/front on Franklin or Washington Streets.
- Added “business/commercial” uses and (e.g. restaurants, retail, etc.) Planning Commission members requested that the list be flipped so the business and commercial uses are first in the list and the arts and cultural uses are listed later.

*HDC Hardship Provisions:*

- Subsection d. on page 4 was completely rewritten per Mr. Wright’s concerns at the September 10 meeting. Commission members had no comments on the new text.

*Supplementary Proposed Amendments – Miscellaneous Provisions.* The following are issues that have been identified by staff since these amendments began earlier this year:

- Dumpster Enclosures – All new trash enclosures will require an enclosure regardless of whether they are in a new development or existing developed land. Waivers would be available. No permits are required for dumpster enclosures and there is no proactive way to let property owners know ahead of time that a dumpster needs to be enclosed if one is installed on an existing development. This provision would not pertain to construction dumpsters on a construction site or a remodeling job and would not apply to existing dumpsters. Mr. Wright was not in favor of requiring dumpster enclosures for dumpsters located in the back portions of properties, just for dumpsters in front of the building or prominently visible from a public right-of-way.
- Rear Yards of Townhouses – Easements need to be provided from backyards that do not have alleys. This would allow pedestrian access across adjacent lots without having to go through the house. Commission members were in favor of requiring alleys or a right-of-way and asked that the language pertaining to perpetual easements be deleted (first page, 2.t.).
- Photometric plans will be required for all site plans.
- Landscape and Parking Area Design Requirements – No new language, except for the language about candle power in b. on page 2.
- Temporary WCF – Planning staff shall review WCF cabinets if they meet the minor site plan requirements; Planning Commission will review those over 5,000 square feet. If the only improvement is landscaping to screen an existing facility, a site plan will not be required (top of page 4).
- RV Parking for Apartment Dwellings in the CC-MU District – Urban Partners pointed out that parking should not be required to be set aside for RVs in the CC-MU zoning district.
- Added a height limitation for wireless towers in POM, N-MU, I-MU. These zoning districts were added after the wireless text was created (page 5).

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- Fence Height Requirements – This amendment would allow a residential property owner to install a fence up to ten feet tall depending on whether the adjacent zoning is commercial or mixed use (up to eight feet tall) or industrial properties (up to ten feet tall). In addition, the property owner would not have to provide a landscaped buffer.
- Removed all references to the now repealed APFO in Article 5.
- Added three permitted uses (“Business Service Centers (56143) and Quick Printing Services (323114),” “Photography Studios,” and “Convention and Conference Centers” to CC-MU, N-MU, CL, CG, CR, POM, and/or LC districts.
- Child Day-Care was removed from the CR district and Adult Day-Care was added to N-MU to make them consistent.
- To provide more flexibility in recruiting members for the Historic District Commission, will allow two of the seven voting member slots to be filled by non-city residents. Currently all seven voting members must be city residents, which is more restrictive than either state law or the City Code.
- Clarified what is meant by “Public Administration (92), Except Correctional Institutions (922120)” by adding a definition for “Correctional Institution.”

Mr. Miller requested that the commission consider an amendment to the requirements for digital signs. The minimum of ten seconds per screen is too long—motorists have driven by before the message changes. He suggested a minimum of six or eight seconds. Mr. Wright noted that the industry standard is six seconds. Nationally, digital billboards change every six seconds. Ms. Maher said the change proposed by Mr. Miller would not interfere with the original goal of the requirements which was to avoid flashing and video signs. The Planning Commission supported the shorter time of six seconds.

**Adjourn.** It was moved and seconded that the meeting adjourn (9:09 p.m.)

3/11/2015

Approved



Debra C. Calhoun - Secretary