

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, April 27, 2016, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, R. Campbell, D. Miller, J. Stone, R. Thomas, and J. Wheeler. The following staff members were present: S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.

PUBLIC REVIEW MEETING

400 North Jonathan Street – Khadene Wilson and Dexton Brunson – Local Conversion District Overlay, Case No. S-2016-01.

Mr. Wright called the public review meeting to order and explained the public review meeting format and process.

Staff Report: Mr. Rohrbaugh presented the staff report for the overlay request (copy of the PowerPoint presentation and staff report is in the meeting file). The property is zoned RMED (Residential-Medium Density) and in the past had been occupied by a convenience store and confectionary. Since approximately 2002 the property has been vacant and the nonconforming use status was lost. If approved, the applicant is hoping to establish a restaurant in this building.

As part of the Local Conversion District Overlay, the applicant will be improving the property by installing additional windows on both the Jonathan Street and West North Avenue facades; adding wall-mounted signage on both facades; adding a handicapped entrance on the east side of the building and a new entrance on the west end of the building.

There is an existing parking lot associated with this property. While minimum parking requirements and lot size requirements are not factors in a Local Conversion District Overlay, any existing on-site parking shall not be reduced unless the remaining parking meets the current ordinance standards. The existing lot is large enough to accommodate two or three parking spaces striped to City Standards.

Staff noted that the existing metal sign pole on the Jonathan Street side of the building must be removed if it is not going to be used by the new business. Other comments by staff included striping the existing parking lot for parking spaces. Based on the size of the lot, two to three spaces could be accommodated. At the preliminary consultation in March, Planning Commission members suggested that the applicant consider relocating the dumpster enclosure to the northeast corner of the lot near the handicap ramp. Planning Commission members indicated they would be amenable to waiver requests on dumpster sizing. Ms. Wilson agreed with all staff and commission comments. Also during the preliminary consultation last month the commission discussed whether the residential property to the east should be shielded from the proposed

**Planning Commission
MINUTES – Regular Meeting**

**April 27, 2016
City of Hagerstown, Maryland**

commercial use. Mr. Rohrbaugh pointed out that the commission decided to see if any of the neighbors had comments at the public review meeting.

The Certificate of Advertisement and the Planning Commission's file were entered into the record by reference.

Applicant/Commission Discussion: Khadene Wilson, 5925 Gabrielle Lane, Chambersburg, Pennsylvania, was present. Her goal is to operate a restaurant because she believes the neighborhood would benefit from it. Putting a use back into this building would be a positive change for the neighborhood, including jobs creation for area residents. Mr. Wright asked if striping will be required. Ms. Wilson indicated that they are planning to stripe the lot for three parking spaces. They also agree with the commission's suggestion to move the dumpster.

Ms. Wilson asked if more than one sign would be possible for the building. Mr. Bockmiller said yes, as long as the total signage meets the maximum square footage in the sign regulations. This figure is dependent on the linear foot length of the building. Any lighting on the sign would need to take the residential neighborhood into consideration.

Public Testimony:

No one besides the applicant spoke in favor of the rezoning request.

The following citizens spoke with concerns about the rezoning request:

Donald Malinowski, 401 Jonathan Street, Hagerstown, Maryland. Mr. Malinowski was concerned about the proposed hours of operation. Ms. Wilson replied that she was planning to be open between 11:00 a.m. and 9:00 p.m. most weekdays, with extended hours on Friday and Saturday evenings until 1:00 a.m. In this area of the city, residents like to eat late at night. Mr. Bockmiller noted that the commission has not regulated hours of operation in the past. If it is a problem, staff could consult with the City Attorney. Mr. Malinowski stated that he lives across the street and the property in question is a magnet for all kinds of kids and all kinds of traffic. If there was a further draw to bring people in, it would make it difficult to sleep. It is a problem now.

Mercedes Pantophlet, 359 Jonathan Street, Hagerstown, Maryland. Ms. Pantophlet shared Mr. Malinowski's concerns. The corner has finally settled down and she was not looking forward to kids hanging out again and making noise. She just wants to make sure it does not get crazy.

Mr. Wright closed the public record.

Ms. Wilson stated she was not opposed to closing at 10:00 p.m. and that she understood the neighborhood’s concerns. Staff had nothing to add and will look into some of the matters with the City Attorney.

MOTION: (Miller/Stone) I’ll move to keep the record open for ten days.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Mr. Stone indicated that he would like to know as to what extent the City Attorney feels the hours of operation can be considered.

REGULAR MEETING

Roll Call.

All commission members were present.

Approval of Minutes:

April 13, 2016 – Workshop Meeting.

MOTION: (Campbell/Wheeler) I’ll move for approval.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Development Review:

**The Pete Store – 12821 Salem Avenue – Tree Removal, Minor Site Plan,
Case No. SA-2016-03 and FC 2016-01.**

Staff Report: (Copy of staff report can be found in the meeting file.) This site plan is for the removal of 2.1 acres of trees, removal of root mats, and stabilization of the area by creating a lawn. No buildings, paving, or utilities are proposed. Given the limited nature of the development, the applicant applied for and the Planning Commission granted a waiver request for the project to be processed using the “minor site plan” standards. The project is still subject to final review and approval by the Planning Commission under the full site plan process.

Forest conservation requirements will be addressed for the entire 10.66-acre tract by retaining two forest retention areas of 1.6 acres and 0.6 acres along the northern border of the subject property.

All review agencies have provided approvals, with the exception of the Planning staff. The City Engineer noted that his office will agree to defer stormwater management until another development proposal is submitted for this property and assumes that stormwater management improvements will be necessary if construction is proposed. Planning staff had no issues with the site plan except for two minor administrative changes to the site plan. Staff recommended approval of the site plan and the forest conservation plan, subject to the applicant's engineer making the administrative changes to the site plan.

It was noted that the topography of the site will not change. The purpose of the site plan is to improve site visibility from Interstate 81. Some trees will be retained. The site will not be graded after the trees are removed.

MOTION: (Stone/Campbell) I move that we approve both the forest conservation plan and the site plan.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Aschenbach Hagerstown LLC – 17996 Garland Groh Boulevard (Lot 6, Phase I), Waiver Request – Landscaping Buffer Width.

Staff Report: (Copy of staff report can be found in the meeting file.) The Planning Commission recently approved a concept plan for a series of commercial buildings on this property and a site plan for the first building along Garland Groh Boulevard is currently being processed. Since then the property owner has been approached about selling a portion of the development to another party. If the property is sold the site would not be redesigned, however, a pie-shaped lot adjacent to the Walmart property would be created. The new lot would have street frontage along Garland Groh Boulevard from the side property line to the existing driveway for the Bull Dog Federal Credit Union. An internal property line would extend to the rear, almost meeting the left side property line.

The design standards for parking lots require a ten-foot landscaped buffer along side property lines. The applicant is proposing to move forward with the development as approved in the sketch plan, with the overall development appearing as one. Shared access and maintenance agreements would be entered into for the purpose of maintaining paved areas and guaranteeing access between the lots. In order to move forward as proposed, a waiver would be necessary to reduce or eliminate the requirement for ten feet of landscaping buffer along each side of the

newly created property line. Planning staff had no objection to the waiver request and saw no point in compelling a redesign of the development to create artificial breaks in the site design in a development that is intended to “read” as a unified development.

Applicant/Commission Discussion: Mr. Stone noted that the new property line would divide portions of the parking lot, but it could be seen as one common parking area. Mr. Bockmiller stated that there would be a shared maintenance arrangement and the area would function as one large parking lot. Mr. Thomas had concerns about maintaining the parking and who would be responsible if a curb or other part of the parking lot was damaged. Steve Zoretich of Frederick, Seibert & Associates, engineer for the potential purchaser, stated that the details would be worked out in maintenance agreements because of the cross easements. The Planning Commission stated that it wanted to review the maintenance agreement as part of the final plat approval.

MOTION: (Campbell/Thomas) I move to approve the waiver request with the landscaping conditions.

DISCUSSION: Mr. Thomas wanted to be certain that the maintenance agreements will be taken care of by the time the final plat comes to the commission for review. Mr. Stone indicated that it would not be necessary because that will be in the cross easement language. Mr. Wright stated that there would be no harm in amending the motion to be sure a maintenance agreement is included in the cross easements. Ms. Campbell amended the motion to state that the commission grant the waiver dependent upon the landscaping condition (to waive the landscaping requirements) and the maintenance agreement be all buckled up and ready for us at the final plat approval. Mr. Thomas seconded the amendment.

ACTION: APPROVED (Unanimous)

Planning Commission Business:

FY 2017 Capital Improvements Program.

(Staff memo and documentation is in the meeting file.) In Ms. Maher’s absence, Mr. Rohrbaugh presented the proposed FY 2017 Capital Improvements Program (CIP). Each year the Planning Commission reviews the proposed CIP for consistency with the Comprehensive Plan and offers comments to the Mayor and City Council as warranted. The memo calls out projects that may be of interest to the commission and identifies the relationship of the various projects to the Comprehensive Plan.

- Hagerstown Cultural Trail project is underway.
- Installation of sidewalks along Haven Road. Commission members were supportive of this project. Many pedestrians use Haven Road. Mr. Brubaker noted that the project is contingent upon a state grant.
- Multi-Use Trail along Marsh Run. Staff explained that the trail will be located in an old right-of-way that was originally set aside for a second set of lanes along Memorial Boulevard. These lanes were never built. Mr. Brubaker stated there is state funding for the necessary underpass at the railroad tracks. The trail will connect the Downtown trail, Memorial Park, pass by the new Bester Elementary School and continue on to Municipal Stadium.
- Green Street Retrofits. Mr. Rohrbaugh clarified that this project is different than the “Complete Streets” initiative. This project will help with pedestrian safety and increase pervious areas to help with stormwater. Two possible locations include Mulberry Avenue at Pangborn Boulevard or Baltimore Street at South Potomac Street. Ms. Campbell asked why these particular locations were chosen. Mr. Rohrbaugh will check with the City Engineer about the selection criteria.
- Dredging of City Park’s Lower Lake and Masonry Repairs of Lake Wall. Mr. Stone indicated his pleasure and appreciation that this project was finally being funded.
- Acquisition of Land for a Combined Fire/EMS Station. Ms. Campbell asked if property has been identified for this project. Mr. Brubaker indicated this is a placeholder in case something emerges out of future debates.
- Edgemont Reservoir Improvements (#52-C0168). Commission members discussed this project at length. Mr. Brubaker indicated that the reservoir either needs to be rebuilt or the City needs to do something else. The dam has been declared a hazard by the State of Maryland. The treatment plant at this facility is dysfunctional. Mr. Wright was concerned that if the main source (Potomac River) is lost for some reason, there will not be a second, backup water source. He believed everything possible should be done to keep Edgemont intact to be used as an alternate water source for the city. Mr. Brubaker stated that rebuilding the facility will be very expensive. Mr. Wright asked if the Breichner Plant is in bad shape as well. Mr. Brubaker stated the Breichner Plant is not functional either in that it does not produce water via acceptable procedures. The City discussed looking at other sources, but the state does not like the small remote facilities. The Council’s intent is to keep the Edgemont facility, but it needs to look at the costs and whether what they do will be sustainable over a period of time.

The CIP is part of the budget which will be approved by the Mayor and Council in May. Staff can forward any comments the commission desires to elected officials for consideration. Mr. Thomas indicated that the water pressure in the east end of town near the old Sheraton is still an issue. Commission members were agreeable to adding Mr. Thomas’s concern.

Mr. Miller asked staff to find out the status of Phases I and II of Eastern Boulevard (Washington County portion), in particular when the project to extend Eastern Boulevard will begin. Mr. Rohrbaugh will follow up with Washington County. Related to Eastern Boulevard, commission members had concerns about the volume of traffic at the Dual Highway/Eastern Boulevard intersection.

Land Management Code – 2016 Package of Amendments.

Mr. Bockmiller presented the final draft of the 2016 Package of Amendments to the Land Management Code. If the commission has no major changes, this matter will be placed on the May 25 agenda for a public review meeting.

Since the last meeting five new amendments have been added:

Item 29 – Allow Motor Vehicle Sales in CL. City staff was recently approached by a property owner wishing to establish indoor automobile sales in a CL (Commercial Local) zoning district. The building in question was built for motor vehicle sales and all vehicles would be displayed indoors. Mr. Brubaker had concerns that this type of use could morph into an auto repair shop and would want assurances that the use would not become an auto repair shop. Mr. Bockmiller pointed out that car repair is a permitted use with a special exception under CL zoning. Commission members were agreeable to adding this amendment to the package.

Item 30 – Landscaping Requirements Applicability. There is a hole in the applicability of the landscaping requirements that could be construed that the standards only apply to full site plans. Staff believes this is a holdover from when the thresholds for minor site plans were much lower. Mr. Stone suggested ending the parenthetical at the end of the second line after “administrative approvals.” Commission members had no additional comments on this proposed text amendment.

Item 31 – Administrative Issue. This amendment is required by the City Attorney. In the last annual package, the Mayor and Council gave staff one-time authority to correct minor structural errors, such as cross-referencing mistakes. In order to implement this, the City Attorney required each correction to be annotated with a footnote, referring to an administrative appendix that was inserted at the end of Article 8. When satisfied with the changes it wants to make, the Mayor and Council will officially “repeal and replace” the Land Management Code, which will then remove the need for the footnotes and appendix. The footnotes and appendix will not appear in the next version of the Land Management Code.

Item 32 – Administrative Issue. Whenever new material is added or removed from the ordinance, it has the potential to affect cross-referencing notes. Once satisfied with the proposed

changes, the Mayor and Council will direct staff to place the ordinance in “final format,” verifying any changes to cross referencing for final adoption (repeal and replace). In this manner, staff addresses cross-referencing corrections prior to adoption, eliminating any need for an administrative correction appendix.

Item 33 – Multiple Units in an Apartment Building and Substance Abuse Programs. This amendment is intended to prevent multiple units within an apartment building from being used for residential facilities for substance abuse and similar uses, creating an institutional environment through the guise of individual residences. Staff is proposing to add “one per lot” to the line item in the Use Chart in Section Z. Commission members had no concerns about this amendment.

Concerning amendments previously reviewed and discussed:

Item 6 – Numerous Minor “Non-Content Clarifications”. Staff corrected one of the dates in the second to the last proposal (March 7, 1977) and added the word “and” in the last proposal (“Use of Semi-Trailers *and* Sea Containers . . .”). No comments or changes by the commission.

Item 7 – Forest Conservation Fee-In-Lieu Payments. Staff revised the text per direction of the commission at the March 30 meeting. Planning Commission members were satisfied with this revision.

Item 12 – Tracking the Creation of Homeowners Associations with Subdivisions. A new paragraph (#11) was added that requires fee simple dedication of open space and other facilities to be owned and maintained by a property owners association. No comments or changes by the commission.

Item 23 – Building Permits Issued in Error. The words “in error” were inserted in the first line of subsection e. (“When a site plan is approved *in error* by the responsible authority . . .”). No comments or changes by the commission.

Item 25 – Privacy Fencing on Properties with Frontage on Higher Classification Streets. This amendment proposal was at the request of the Mayor and City Council. The Planning Commission recommended keeping the provision as it is currently written in the belief that more problems would be created than solved by trying to address this matter. An explanation will be provided to the Mayor and City Council when this package is forwarded to them for approval.

Item 26 – Day-Care Proposal. Near the end of the third line from the bottom, change the word “inhibit” to “prohibit.” With that change, the Planning Commission had no concerns with this amendment.

Staff will advertise for a public review meeting on the package of amendments for the last meeting in May.

MOTION: (Campbell/Stone) I move that we forward to public hearing with the additional corrections that we have given staff this evening.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - Brubaker)

Comprehensive Plan Update: Environmental Resources & Sustainability Element.

(Packet memo is in the meeting file.) This element was known in previous plans as the “Sensitive Areas and Mineral Resources Element.” In *visionHagerstown 2035*, the Environmental Resources & Sustainability Element addresses the requirements of the Economic Growth, Resource Protection and Planning Act of 1992; includes a mineral resources element; and complements the Water Resources element by discussing stormwater runoff and water quality. The new element also addresses emerging issues such as air quality issues and goals to achieve a more sustainable community.

Staff added a sustainability element and believes it complements what the City is already doing as part of its Sustainability Maryland application, which contains eight areas, including Community Action, Community-Based Food System, Energy, Greenhouse Gas, Health & Wellness, Local Economies (“Buy Local” Campaign), Natural Resources, and Planning and Land Use. The City Engineer has been very active in implementing Sustainable Maryland and certification benefits the City by allowing access to grant funding and other resources to assist in implementing sustainable practices in Hagerstown.

The Environmental Resources & Sustainability element is required in the Comprehensive Plan. All of the Goals, Policies, and Actions from the 2008 Comprehensive Plan are being carried over and incorporated into the new text.

Pages 10-1 and 10-2 – Introduction, Goals, Sensitive Areas, Mineral Resources. All of these items are carryovers from the 2008 Plan. Mr. Rohrbaugh was asked to check whether the most recent floodplain mapping is available. Mr. Stone noted there are some areas in the city where there is existing development in floodplains and it is a problem. Mr. Rohrbaugh stated that he has seen the maps and there are still developments shown in the 100-year floodplain. Commission members were interested in how many acres are in the floodplain in Hagerstown.

Pages 10-3 and 10-4 – Stormwater Management and Air Quality. Staff noted that this section has a crossover with the Water Resources Element. Ms. Campbell was pleased with the language pertaining to green roofs. The Air Quality section was taken from the MPO. Among other things,

strategies were identified to reduce fine particulate matter. Commission members asked what is meant by a “clean air non-attainment area.” Mr. Rohrbaugh stated that “non-attainment” in this context means the area is above a certain threshold for fine particulate matter. Some of the fine particulate matter originates in Hagerstown and some is produced west of Hagerstown. Mr. Brubaker added that this region includes two major interstate highways. In addition, particulate matter drifts east from the Midwest power plants.

Pages 10-5 through 10-10 – Sustainability. As noted earlier by staff, this is entirely new content. The text explains what has been done so far; policies and action items are the next steps. Ms. Wheeler noted a typo in the first bullet on page 10-6 (second to the last line, remove the extra “used”). On the same page, the second bullet, commission members felt “pounds” was a confusing unit of measure in this context. Mr. Rohrbaugh will investigate changing “pounds” to a volume equivalent. At the bottom of page 10-9, commission members agreed that pet waste is a big problem.

Page 10-11 – Environmental Resources & Sustainability Policies. Commission members discussed tree canopy (Policy 10-4). Mr. Rohrbaugh explained that tree canopy is an overall percentage. The city’s canopy is 21% which means 21% of the city’s physical size has leafy cover. Mr. Stone observed that whenever the City approves fee-in-lieu instead of actual tree plantings, it makes it difficult to accomplish the goal of 30% tree canopy by 2030. Mr. Bockmiller added that based on the amount of vacant, wooded land in the city, much of the tree canopy has the potential to disappear due to development. Mr. Stone asked how Hagerstown compares with other cities of the same size. There should be a goal to have a certain amount of tree cover, but maybe it could be proportional. Mr. Brubaker suggested that staff ask the City Clerk provide the data from 2009 when this was first presented to the Mayor and Council. Mr. Bockmiller stated that another variable is that if the existing street trees mature, they will contribute to the tree canopy. Mr. Stone would be interested in what would be a realistic goal for tree canopy by 2035.

Due to the hour, commission members requested that this be placed on the May 11 agenda to continue review of this element.

Election of Officers.

- MOTION:** (Thomas/Miller) I move we keep everything just as it is (Douglas Wright – chair; James Stone – vice chair).
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

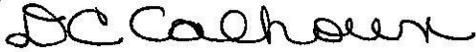
**Planning Commission
MINUTES – Regular Meeting**

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Adjourn. It was moved and seconded that the meeting adjourn (9:13 p.m.)

5/13/2016

Approved



Debra C. Calhoun - Secretary