

Douglas S. Wright, Jr., chair, called the meeting to order at 4:00 p.m., on Wednesday, August 10, 2016, in the Conference Room, Fourth Floor, City Hall. Also present were commission members M. Brubaker, R. Campbell, D. Miller, J. Stone, and R. Thomas. The following staff members were present: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator; A. Rohrbaugh, Planner; and D. Calhoun, Secretary.

Approval of Minutes: July 27, 2016 – Regular Meeting.

MOTION: (Thomas/Campbell) I'll make a motion that we approve the minutes as submitted.
DISCUSSION: None.
ACTION: APPROVED (Abstain – Brubaker, Miller)

Preliminary Consultation: Proposed Rezoning – Burhans Village (former Deerfield Knolls site) – RMED to RH.

Mr. Doug Wright abstained from this discussion.

Staff Report: (Staff memo is in the meeting file.) This item has been scheduled for a public review meeting on August 31, 2016. Historically this property was split-zoned RMED and Commercial General (CG). During the height of the housing boom in 2006, the owner at the time requested and received a Planned Unit Development (PUD) overlay zone for the development of 83 townhouse units, known as “Deerfield Knolls.” A site plan for the Deerfield Knolls development was approved in 2007, and a revised grading plan for the development was approved in 2008. Although some clearing occurred on the site at the time, the development never came to fruition. When no further action on the development happened, the PUD overlay expired two years later in 2010. The area was also reviewed during the 2008-2010 Comprehensive Rezonings and rezoned entirely to R2 (RMED’s predecessor) during the Phase III rezonings in 2010.

Burhans Village LLC has filed an application for rezoning on behalf of the property owner, Cavalier Hagerstown LLC. The area proposed for rezoning includes four vacant parcels and platted rights-of-way west of Burhans Boulevard North, east of Mitchell Avenue, and north of Carrollton Avenue. Total acreage covered under the proposed rezoning is approximately 6.21 acres. The applicant proposes to rezone the property from RMED (Residential Medium Density) to RH (Residential High Density). If rezoned to RH, the plan is to develop the property for multi-family housing.

Under Maryland Law, a piecemeal rezoning of property can be considered only if the applicant can demonstrate that: 1) there was a substantial change in the character of the neighborhood where the property is located, or 2) that there was a mistake in the existing zoning classification. The applicants are requesting the rezoning on the argument that there was a mistake in the existing zoning classification because the surrounding land uses, geometric configuration of the property, and setback and lot size requirements under RMED zoning do not make the property conducive for development under RMED. (The full justification for mistake is attached to the staff memorandum in the meeting file.) Staff noted that although development concepts will be discussed as part of this process, the rezoning cannot be tied to or conditioned upon a specific concept plan.

Commission/Applicant Discussion: Bruce Dean, Linowes & Blocher, attorney for the applicant, and Michael Shifler, Fox & Associates, Inc., engineer for the project, were present. Mr. Brubaker asked staff for a refresher on what the proposed densities and yields might be if the rezoning request to RH was successful. According to Mr. Rohrbaugh, the density under RH zoning would be in the 10 to 11 units per acre range (including improvements for private roads, forest conservation, and open space requirements). The gross number of units, based on 2,700 square feet per unit, would be about 16 units per acre. In response to a question by Mr. Stone, Mr. Bockmiller clarified that private roads are permitted in apartment complexes. Mr. Stone pointed out that the site conditions would also reduce the number of units that could be placed on this property. Mr. Brubaker asked what the height limitation is in the RH zoning district. Mr. Bockmiller stated that five stories or 60 feet is the maximum height allowed in this zoning district. Mr. Rohrbaugh pointed out that most of the existing dwellings to the west are single- and two-family homes, with some apartments in converted single-family and two-family homes. The previous owner/developer created platted streets. Mr. Stone observed that the scale of this project would necessitate an entrance off of Burhans Boulevard. Mr. Bockmiller concurred, stating that the primary access points would likely be on Mitchell Avenue and Burhans Boulevard.

At Mr. Wright's request, Mr. Stone assumed the chair. Mr. Shifler explained the previous developer proposed condos for the townhomes because they could not get the proper depths. The current developer has plans to submit a plat that would combine all four lots and platted rights-of-way into a single lot once again. Mr. Shifler added that the Carrollton Avenue connection was never finalized due to unresolvable title issues.

Mr. Stone asked if the applicant's representatives had any questions for the Planning Commission. Mr. Dean and Mr. Shifler had no questions or requests for feedback at this time. The former proposal included 83 units; this current proposal will be in the neighborhood of 76 units. Buildings will be three or four stories tall. Open space requirements and locations cannot be determined until the stormwater management calculations have been completed. The units will be for rent, not homeownership (condominiums).

Mr. Shifler explained the applicant's justification for the rezoning which will be based on mistake in the original zoning. They are contending that when the property was rezoned to

RMED during the Phase III comprehensive rezoning, the City did not give appropriate consideration to the surrounding uses and zoning districts. The applicant believes that noise and aesthetics associated with the adjacent industrial zoning districts would be a deterrent to those seeking home ownership in this area. Also, the unique geometric configuration of this property, combined with the requirements of the current Land Management Code, would not allow enough space to effectively meet minimum lot size requirements and public street right-of-way widths. A high-density residential zoning designation for this property would provide a reasonable transition between the RMED and industrial zoning districts that are contiguous to it.

Concerning ingress and egress to the site, Mr. Shifler indicated that the new design would be similar to Deerfield Knolls. A parking design will be incorporated to discourage cut-through traffic between Mitchell Avenue and Burhans Boulevard. According to Ms. Maher, the Mineral Street connection proposed as part of Deerfield Knolls will not be made. Based on the surrounding zoning, Mr. Miller commented that he would have had a difficult time designating this property for high density with the development that surrounds it when the comprehensive zoning was being done. Mr. Stone agreed that the developer needs to be prepared to address the high-density issue. Mr. Dean said this is a transition area between two industrial zoning districts and the lower-density neighborhood to the west. If it remains as RMED, he felt it would be more challenging to convince people to buy houses next to the railroad line. The commercial zoning that was there would have been a buffer between the industrial and residential zoning. Since the commercial has been eliminated there is nothing but medium-density residential. That would create a situation where people are trying to buy houses right up against two industrial areas. Mr. Stone noted that there is commercial zoning further down Burhans Boulevard, but the topography with this site is difficult. The commission's concern was that it was hard to imagine what type of commercial uses would have worked, which is why the commission settled on RMED for this property.

Mr. Thomas had concerns that people may not even want to rent next to the rail line. Ms. Campbell disagreed stating that younger people probably would not have an issue with the rail line nearby. Bruce Dean explained that this would be workforce housing and the rents would be somewhat lower. This proposal would provide a use for land that would otherwise be sitting vacant.

Mr. Bockmiller stated that the City has been receiving anecdotal reports that this area is being occupied by homeless people. Mr. Stone noted that part of the reason the commission and the Mayor and Council were favorably disposed to the Deerfield Knolls project was that it would have provided a useful development in this area (which is prone to homeless problems).

Mr. Shifler noted that the original owner had this property almost 30 years and had no success in doing something with it. Deerfield Knolls came along with the hope of developing something on it, but then that project fell through. Ten years later, this project is another possibility for development.

Mr. Dean explained the workforce housing concept is a moderate income tax credit program targeted towards people making at least 60% of the median income (for the County that amount is about \$54,000). It is not a subsidy of the rent; the owner of the apartment is eligible for a tax credit if they charge less for rent to people in that target income range. The U. S. Department of Housing and Urban Development (HUD) will give the owner a tax credit on the income they are generating from that apartment; however, they must meet specific guidelines that keep the rents at a determined level for an extended period of time. It is an effective way of providing affordable housing that is not Section 8 or subsidized housing. HUD determines what the market-based rent is without any subsidy.

Abandonment of McPherson Street between West Washington and West Franklin Streets and a Fence.

Staff Report: (Staff memo is in the meeting file.) The Police Chief, Victor Brito, is requesting that McPherson Street be abandoned between West Washington and West Franklin Streets. The reason for the abandonment is for security and the safety of Police Department employees. Citizens use McPherson Street as a thoroughfare. The closing will have little or no impact on visitors to the Police Department since the vehicular entrance on West Washington Street will not be affected. Mr. Wright pointed out the drawing shows a future barrier fence with access gates.

Commission/Applicant Discussion: Jim Bender, Assistant City Engineer, was present. Parking is available to the public in a lot accessed from West Washington Street. Mr. Bockmiller stated that the applicant may be asking for landscaping waivers along West Franklin Street. Front yard fences have buffering requirements so the existing landscape strip may have to be modified to meet these requirements.

Planning Commission members had no concerns with this request. Mr. Wright expressed his hope that the Police Department take the style of the fence into consideration. Mr. Bockmiller indicated that in previous discussions with the Police Department on this matter it was his understanding that their plans are for an ornamental fence with vertical pickets. Commission members had no comments to pass on to the Mayor and Council on this request.

Quit Claim Request: 400 Key Circle.

Staff Report: The owner of 400 Key Circle has filed a request to quit claim the unimproved right-of-way of Alley 1-006 which is adjacent to their property. The property owners on either side have no objection to this acquisition of the half of the alley adjacent to their land. The intent is to maintain the property as a driveway for 400 Key Circle and access to the house. Right-of-way will be provided to the adjacent owners for access as needed per request.

Commission/Applicant Discussion: Jim Bender, Assistant City Engineer, stated that the request came in from one of the property owners and staff discussed it with them. For quit claims all of the property owners who have an interest in or touch the property must give permission. Approvals were granted by the affected property owners. From the City's standpoint, that alley will never be constructed.

Mr. Wright had concerns about the configuration of the quit claim and the manner in which the area to be quit claimed was divided among the adjacent owners. Commission members and staff discussed the proposed configuration. The existing driveway is in the location of the proposed quit claim and it serves the property at 400 Key Circle and 374 Key Circle. Mr. Wright also had a concern about the extension that will be created and added to 400 Key Circle that reaches to Alley 1-005.

Mr. Stone said his main concern is that there must be a right-of-way on record in favor of the owner of 374 Key Circle since the garage is clearly an existing improvement. An attorney needs to draw up a right-of-way agreement before they proceed with the quit claim. All properties must have access to the paper alley in the back.

Concerning the configuration and Mr. Wright's concerns, Ms. Maher said the City cannot force a different configuration because the City of Hagerstown does not own the property in question. Mr. Bender added that this will not clear up any underlying title issues; it just gets the City out of it. The City cannot force property owners to take land if they do not want it. The owner at 410 Key Circle is not interested in taking on additional property. Mr. Wright withdrew his objections about the "ugliness" of the configuration, but noted that he will only agree to this if agreements have been established to protect the interests of all property owners now and in the future. The Planning Commission agreed that the quit claim should be conditioned on the owner of 400 Key Circle dedicating cross easements for 374 and 410 Key Circle on a plat.

Board of Zoning Appeals Agenda – August Hearing.

Commission members had no comments on the Board of Zoning Appeals agenda.

Comprehensive Plan Update: Water Resources Element (Continued from July 27 Meeting).

Staff Report: This is a continuation of the review of the Water Resources Element from the July 27 Planning Commission meeting. As staff was making the changes, an updated report was received from the Wastewater Division, and the updated Water Division report is on its way. Staff does not anticipate major changes, just items that will moderately affect the math. As a

result of comments raised at the last meeting or errors/inconsistencies discovered afterwards, the following changes were made to the element:

- Page 4-3 – Reference the 2016 SCAP, not 2015.
- Page 4-5 – Added clarification from Utilities on I & I issues.
- Pages 4-5 and 4-6 – Corrected math errors on wastewater capacity (in EDUs). Planning Commission had no concerns with the labels.
- Page 4-7 – Math corrections in Tables 4-3 and 4-4 and added a note that more wastewater capacity will be limited. A deficit is clearly noted. Also clarified in Table 4-4 on source of capacity figures and noted that the Funkstown and MCI plants do not serve the MRGA.
- Page 4-8 – Removed outdated figures for wastewater capacity in the UGA left over from the 2008 Comprehensive Plan.
- Page 4-9 – Staff attempted to re-write portions of the paragraph concerning Total Maximum Daily Loads (TMDL) so it makes more sense.
- Page 43-14 – Cleared up goals for water service and added the Edgemont Reservoir as a consistently viable source of water.
- Page 4-16 – Clarified that Table 4-6 is intended for 2035.
- Page 4-17 – Clarified that Table 4-7 is intended for MRGA and targeted economic development areas. Added language about the Edgemont Reservoir's capacity and its role as a secondary source per Utilities staff.
- Page 4-18 – Clarified in Line 1 of Table 4-8 that available water supplies are solely from the R.C. Willson Plant for the purposes of ultimate demand analysis.
- Page 4-19 – Removed reference to Capital Improvement Program at the top of the page.
- Page 4-27 – In Policy 4-5 language was added to emphasize making the Edgemont Reservoir a sustainable source and the importance of increasing the permitted capacity of the R.C. Willson Plant.

Commission/Applicant Discussion: Mr. Rohrbaugh pointed out on pages 4-22 and 4-23 how the City is attempting to meet the calculations for nonpoint source runoff based on the requirements of the Maryland Department of Planning (MDP). The city is currently about one-third impervious. With each scenario (Moderate Growth and Rapid Growth), that calculation goes up.

Staff has submitted this element to the Maryland Department of the Environment (MDE) and MDP and asked for feedback by the end of this week. Both agencies will have an opportunity to review it again when it is distributed for public review. Staff was interested in receiving feedback on the front end and not during Planning Commission's public hearing. Per Mr. Thomas's question, Mr. Rohrbaugh will clarify that Tables 2-2 and 2-1 are in Chapter 2 (page 4-23).

Mr. Stone asked if the state has standards or requirements for stormwater runoff. Mr. Rohrbaugh said the state's regulations set forth how stormwater management facilities are designed for developments. Ms. Maher added that in the older parts of the city, stormwater either goes

directly into tributaries or into the ground water. Mr. Wright commented that one-third impervious area is not a bad ratio for the city.

Staff will bring this element back for discussion at the next meeting. The Comprehensive Plan Update will not be brought before the Mayor and Council until after the new administration is in place.

Other Business.

- Mr. Wright announced that the Maryland Planning Commission Association (MCPA) will be holding its annual conference at the Holiday Inn Conference Center in Frederick, Maryland, on Thursday, October 27, and Friday, October 28. He asked commission members to consider attending.
- Mr. Rohrbaugh announced that the Maryland Chapter of the American Planning Association will be holding its conference on Saturday, October 15.

Adjourn.

It was moved and seconded that the meeting adjourn (5:27 p.m.)

Approved


Debra C. Calhoun - Secretary