

Douglas S. Wright, Jr., chair, called the meeting to order at 4:00 p.m., on Wednesday, July 11, 2018, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell (via teleconference), S. McIntire, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator; M. Flick, Planner; and D. Calhoun, Secretary.

Approval of Minutes:

May 16, 2018 – Special Meeting.

MOTION: (Wheeler/Wright) I move approval of the minutes.

DISCUSSION: Mr. Wright asked if there was an update on the easement at Western Maryland Hospital. Mr. Bockmiller indicated that someone is working on it, however, he did not have an update at this time.

ACTION: APPROVED (Abstain - McIntire, Thomas)

May 30, 2018 – Regular Meeting.

MOTION: (Thomas/McIntire) I'll make a motion that we approve the minutes for May 30 as submitted.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

733 Dual Highway – Lidl US Operations, Final Plat and Forest Conservation Easements, Case No. S-2018-11.

Staff Report: (The staff report is in the meeting file.) A plat pertaining to 733 Dual Highway was submitted for review to abandon interior lot lines for three adjacent parcels, creating one large parcel for the pending development of the site for a supermarket; and to identify the easement area for forest conservation compliance and record the terms of the easement. The plat was reviewed and all agencies have approved the plat with the exception of the Parks and Engineering Department, the Electric Division, and the Water Division. All of these agencies provided conditional approval subject to minor corrections to the plat or to address minor drafting issues. For the commission's information, Mr. Bockmiller noted that the State Highway Administration recently provided this development with final approval of the site plan regarding the required road improvements along Dual Highway and the associated driveway entrance.

Staff recommended approval of the plat, subject to the conditional approvals provided by Planning, Parks and Engineering, and the Electric and Water Divisions. The plat serves as the mechanism to record the forest conservation easements.

Commission/Applicant Discussion: No questions or concerns by the commission

MOTION: (Campbell/Thomas) I move for approval with the specified conditions.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Workshop: 350 East Washington Street – Jessie Unger.

Staff Report: (The staff report is in the meeting file.) A representative of Jessie Unger submitted a proposal to landscape the property at 350 East Washington Street in accordance with the ordinance requirements for car sales facilities. Staff pointed out that the proposal does not show drive aisles, display areas, and designated customer and employee parking. Staff believed it could work with the applicant on these matters later on in the process.

This matter is being brought to the commission for additional consideration since the commission will be asked to act on waivers at some point. The applicant is proposing the following:

- Removal of all paving in the East Washington Street right-of-way and installation of landscaping. Parking and vehicle display would be up to the front property line. The ordinance requires ten feet of landscaping.
- Removal of three feet of paving along the western side lot line and installation of shrubs four feet on center. The ordinance requires ten feet of landscaping.
- Replacement of the section of asphalt sidewalk along the eastern side of the street frontage with concrete per City Code.
- No landscaping is shown around the building. The ordinance requires six feet of landscaping around the building.
- Nothing is shown against the eastern side property line. The ordinance requires ten feet of landscaping along the property line.

The first, second, third, and fourth proposals are generally consistent with Ms. Unger’s prior conversations with the Commission.

Staff recommended the Commission consent to proposals in 1 through 4 above, with the following also being required:

- Removal of the business sign from the City right-of-way. Business signage is typically prohibited in street rights-of way and required to be on private property.
- Landscaping similar to the three feet proposed along the western side property line should also be installed between the driveway entrance and the eastern side property line to keep parking and inventory away from the sidewalk (ordinance would typically require ten feet) however, three feet would be acceptable to mirror the other side.
- Rather than install landscaping along the eastern side property line, install a three-foot picket fence along the property line to partially shield the inventory from the adjacent property, beginning 25 feet back from East Washington Street and continuing to a point equal with the front of the garage building. This property is at a higher elevation than the adjacent parking area, and the fencing will mitigate the view of the underside of cars on this property from the neighboring property and would ensure that there is no parking and inventory encroachment onto the adjacent property.

The property adjacent to the east was developed to the City’s design standards; this property is slightly higher than the Thoburn property on the east side. Staff provided an air photo of the site in the meeting packet that was marked up per the above comments.

Commission/Applicant Discussion: Roland Layman, listing agent, was present on behalf of Mrs. Unger. There have been several inquiries about the property; however, the property cannot be used for car sales as currently developed. The site is not large enough for much of anything else. Most of the inquiries have been for car sales. The current owner will not be upgrading the site. Any agreement of sale would require the new owners take care of the upgrades.

Mr. Bockmiller stated a site plan will be required for the upgrades. Given that the new owners would only be removing sections of asphalt and adding plantings, staff asked the commission to consider waiving the standards for a minor site plan. There is still an amount of data that needs to be placed on a minor site plan—this is mostly a minor landscaping plan.

Ms. Campbell asked how many buildings are on the property and agreed with the suggestion for picket fencing on the east property line. Mr. Layman asked about the height of the tree that should be planted. Mr. Bockmiller stated that the tree will be in a street right-of-way and the heights will vary. In addition, the tree could be limbed up for greater visibility. On install, street trees are typically a two-inch caliper. The City Engineer has an approved list of street trees.

Planning Commission members agreed that the staff’s comments are appropriate. The fence should be ornamental in nature to hide the undersides of the vehicles for sale on this site from the adjoining property to the east. Mr. Bockmiller recommended that a color other than white be selected since white will show dirt more easily in that location. Mr. Layman questioned the employee parking and Mr. Bockmiller explained that employee parking must be marked, in addition to customer and inventory parking.

This will come back to the commission as a site plan with waivers. Planning Commission member were not opposed to this coming in as a simplified minor site plan.

Board of Zoning Appeals Agenda – July Hearing.

Planning Commission members had no concerns or recommendations to pass on to the Board of Zoning Appeals on the cases filed.

Land Management Code Text Amendments.

Staff Report: (The staff report is in the meeting file.) Since the commission’s last review of the 2018 Land Management Code (LMC) text amendments package, several issues have arisen on which staff requested guidance. In addition, an intern undertook research on several of the items commission members authorized staff to explore further earlier this year.

Amendments Arising from Input from Others:

- **Brew Pub** – Modify the definition to remove “as an accessory use.” By their nature, the brewing operation in a brew pub may involve more floor area and/or longer hours of operation than the pub portion of the business, and yet they are dependent upon one another (page 3-7). This amendment was requested by the City’s Department of Economic and Community Development (DCED). This use is permitted by right in the Smart Growth A&E portion of the CC-MU, the CG, CR, and as a special exception outside the Smart Growth A&E portion of the CC-MU, the N-MU, CL, and Conversion district.

Planning Commission members had no concerns with this definition change.

- **Distillery Pub and Wine Pub** – Add these uses to the LMC in the same zones where Brew Pub is allowed. This amendment was requested by DCED.

Planning Commission members had no concerns with the addition of these uses.

- **Indoor Recycling Operations** – Allow in POM district. The inquiry was regarding the type of collecting and sorting operations undertaken by the Goodwill. Staff noted that this use would have to be defined closely. This amendment was requested by the ARC of Washington County for its Florida Avenue property.

Planning Commission members were not in favor of this proposal. Mr. Wright believed adding this use in the POM (Professional Office Mixed) district would weaken that district. Mr. Bockmiller noted that the standards for special exceptions are weak and the uses are considered permitted “by right.” Recycling is permitted in the IR (Industrial Restricted) and the IG (Industrial General) districts.

- **Rear Yard or Side Yard Fences on Arterial Roadways** – Allow six-foot privacy fences in these situations if the arterial roadway has extremely wide public right-of-way and the fence would be setback at least 15 (or 25) feet from the edge of pavement. Staff suggested that the requirement be for white vinyl fences in this situation for uniformity along the arterial and ease of maintenance (page 4-71, K.a.). This issue was raised by the Mayor and City Council in previous Land Management Code update discussions because of residential properties backing up to Eastern Boulevard North. Mr. Bockmiller stated this is also an issue on Terps Boulevard. Mr. Thomas pointed out that if the City decides to widen Eastern Boulevard to the full width of the right-of-way, any fences would be adjoining the sidewalk. The purpose of the right-of-way is to allow eventual widening of a street in the future. If the road is widened there could be a “fence canyon” which is the situation that commission members were trying to avoid with the original amendment.

Commission members were not in favor of changing the existing language.

- **Boarding or Rooming Houses** –
 - Replace definition with “a facility with sleeping rooms to rent which contains shared bathroom and kitchen facilities in common areas of the facility for use of the residents” (page 3-6). Some of the older hotels in town are allowing people to rent by the month or the day. There is no place to prepare food and clean dishes. Mr. Bockmiller was concerned because these are not currently permitted uses in the City. Ms. Maher suggested conditions on size and how the facilities will be managed. Ms. Wheeler had concerns about these types of uses being established in older neighborhoods.
 - Allow in RH, RO, CC-MU, and CG, with a requirement for a 24-hour per day on-site supervisor representing the owner, a contract with a non-profit agency (such as Community Action Council [CAC]) to provide self-sufficiency counseling for tenants, and a maximum occupancy limit set by the Fire Marshal. Baltimore City uses ten units as a cut off. Staff noted that if hotels are required to be licensed with a requirement for what must be provided for long-term stay, a segment of our population could be evicted from hotels and become homeless without some relief in the code.

Ms. McIntire asked about residency limits. Mr. Bockmiller said these will be treated as a housing choice and not about who would rent these rooms.

Mr. Wright wanted to make sure that these uses are managed correctly. Commission members believed a stipulation needed to be added that these uses would only be allowed in existing buildings (as of 2018), rather than building new ones for these uses. Ms. Maher is consulting with the Chief Code Official and the Fire Marshal about a number of rooms for rooming houses. Another concern raised by the commission was potential conflicts with revitalization efforts downtown and whether exclusions such as historic districts and the Smart Growth Area would be appropriate. Ms. Maher is reviewing how other communities in Maryland they are handle rooming houses. Ms. McIntire suggested requiring referrals from aid organizations such as CAC.

Commission members wanted to look at this language again; however, they agreed with the proposed zoning districts.

- **Earthtone Color Issue in SALDO Architectural Design Requirements –**
 - To alleviate confusion, replace definition with “a color scheme of muted tones of natural colors found in soil, sand, moss, trees, and rocks, such as shades of sienna, ochre, cream, umber, olive, and slate” (page 3-14). The revision would eliminate “orange, white, and red.”
 - To allow limited use of accent colors or corporate colors, staff suggested adding a line to the SALDO text “brighter colors may be used sparingly to accent architectural features and for signage” (page 5-55, 6.4.b).

This issue was raised during review of the Sam’s Club revision plans. Planning Commission members were satisfied with these changes.

- **Conversion District** – Allow existing, non-residential, large, one-story structures to be eligible for a Conversion District Overlay. Any structure would still have to have been in existence prior to October 1, 1956. Staff recommended adding a minimum square footage requirement (page 4-62, 2.a). The Winter Street School building is an example of a building that would benefit.

The Planning Commission had no concerns with this proposal.

- **Stealth Wireless Communication Towers** – Require a setback to cover the fall zone as is required for non-stealth WCF towers (page 4-98, b and page 4-101, f.2.4). This is in response to the North High Cell Tower case.

Planning Commission members were okay with this proposed amendment. A possible item for discussion in the future is the idea of signage as a stealth application since the telecommunications industry is changing and the companies are becoming more creative.

- **POM District** – Modify provisions related to conditional uses for POM when dealing with a group of buildings. Staff suggested the following language “. . . not exceed in the aggregate 20% of the gross floor area of a group of adjacent buildings ~~designed and approved as a unified development, as designated on the approved site plan~~ under common ownership or a group of buildings in a business park developed as a single subdivision.” This language is found on page 4-35, subsection 5.b. This is in response to the ARC property on Florida Avenue and the former FirstLook Photo property in the MKS Business Park.

Planning Commission members had no concerns with this proposed amendment.

Research on Previously Discussed Items

These items were researched by Nathan Abel, the department’s summer intern (see meeting file for research reports):

- **Tract Area for PUD’s.** Several cities were examined and the requirements vary widely.

The commission made no recommendation on this item.

- **Airbnb and VRBO.** Points raised and discussed included:
 - Potential parking issues in neighborhoods.
 - Short-term rental properties would not pay rental license or hotel/motel taxes.
 - Impact of these uses on neighborhoods needs to be minimized.
 - Whether other communities regulate these uses.

Commission members were generally in favor of allowing these uses but asked staff to look into them further, in particular definitions and controls.

- **Sea Container Homes.** Mr. Bockmiller stated that the Land Management Code is silent on this type of housing. Commission members were divided on this issue. Commission members requested that staff check with the Chief Code Official about how the Building Code would treat this type of structure and also whether other jurisdictions in Maryland regulate them.
- **Front Yard Parking Pads for Single-Family Residences and Duplexes.** Commission members felt that if a property has alley access, parking pads in front yards should not be permitted. The City Engineer’s office does not allow vehicles to back out of a property into the street. There would be no net gain in parking since a parking space would be lost on the street to create the access. There was no recommendation on this from Planning Commission members.

- **Hookah Lounge/Tobacco Store Separation Requirements.** (This one was added at the meeting—see separate information in the meeting file.) Staff received an inquiry about a hookah lounge at the Venice Inn site; however, there is an existing tobacco store at the Hagerstown Shopping Center and the ordinance restricts these two uses from being within 500 feet of each other. Typically staff measures the distance from property line to property line, rather than from building to building.

After discussion, commission members felt the measurement standard should be changed from “property to property” to “use (lease area) to use (lease area).” However, the existing separation measurement standard should be kept for pawn shops in the CC-MU zoning districts. Pawn shops can give the impression of economic disinvestment when they are clustered in a revitalization area.

Adjourn.

It was moved and seconded that the meeting adjourn (6:57 p.m.).

7/11/2018

Approved



Debra C. Calhoun - Secretary