

**Planning Commission
MINUTES – Regular Meeting**

**December 14, 2016
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the meeting to order at 7:00 p.m., on Wednesday, December 14, 2016, in the Conference Room, Fourth Floor, City Hall. Also present were commission members R. Campbell, P. Corderman, D. Miller, J. Stone (late), 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; A. Rohrbaugh, Planner; and D. Calhoun, Secretary. **(NOTE: Planning Commission revisions are indicated in red text.)**

REGULAR MEETING

Roll Call.

All Planning Commission members were present. Mr. Wright welcomed Councilmember Paul Corderman, the new ex officio member.

Approval of Minutes:

October 26, 2016 – Regular Meeting.

MOTION: (Miller/Thomas) Make a motion to approve.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

November 9, 2016 – Regular Meeting.

MOTION: (Wheeler/Campbell) I will move approval.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN – Miller, Stone)

(Mr. Stone arrived.)

December 5, 2016 – Special Meeting.

MOTION: (Wheeler/Stone) I will move approval.
DISCUSSION: None.
ACTION: APPROVED (ABSTAIN – Campbell)

Development Review:

Quit Claim Request – Portion of Alley 4-48 (Coinop Warehouse near 367 East Franklin Street).

Staff Report: (Copy of staff report in meeting file) Jim Bender, Assistant City Engineer, reported that his office received a request from Lloyd Thoburn (d/b/a 339 Antietam, LLC) asking the City to quit claim a portion of Alley 4-48 that separates two parcels that he owns near 367 East Franklin Street. The attached exhibit shows the configuration of Mr. Thoburn's parcels and the portion of the alley that he would like to have quit claimed. Mr. Thoburn intends to rehabilitate the large existing warehouse building that fronts on East Franklin Street (Parcel 1153 on the exhibit in meeting file) and to construct a large parking lot on the vacant parcel (Parcel 1191) that has frontage on East Washington Street. If the alley right-of-way would remain in place, Mr. Thoburn would be required to comply with setback requirements from the alley which would limit the development potential of the property. This request for quit claim would need to be approved by the Mayor and City Council.

The right-of-way for Alley 4-48 was reserved when the parcels in this neighborhood were originally developed; however, the alley was never constructed. A short private driveway from Osborne Avenue that served the rear of the warehouse building was constructed in the alley right-of-way but that driveway did not extend westward to reach additional properties. The proposed quit claim of this portion of the alley right-of-way would not adversely impact any other property owners in that the parcel at 354 East Washington Street will still adjoin the remaining Alley 4-48 right-of-way allowing access to East Franklin Street.

Mr. Bender indicated that Engineer staff contacted other City departments and agencies to determine whether there were any concerns or objections to the proposed quit claim. The Hagerstown Police Department, Fire Department, Water Division, Electric Division, and the Planning and Code Administration Department had no objection to the request. The Public Works Department had no objection to the request as long as easements are created to protect and enable maintenance of existing public storm drainage pipes in the alley right-of-way. The Wastewater Division also had no objection to the quit claim but requested the establishment of a 20-foot wide easement along an existing sanitary sewer main that crosses the property.

From a neighborhood perspective, Engineering staff is encouraged to see that this vacant warehouse building may be put to a new use. In addition, Parcel 1191 has been the source of numerous Code Administration violations and concerns over the years, and the proposed improvements to that property should help to remove a blighting influence from this neighborhood. Mr. Bockmiller stated that the property owner is moving forward with a sketch plan for redevelopment. The parcel is zoned CG (Commercial General) and warehouses are not a permitted use. The existing warehouse is an expired nonconforming use. Many commercial uses

that would be permitted for this site would be uses with parking requirements greater than the site would be able to provide since it has no on-site parking. Mr. Thoburn is considering purchasing the adjacent warehouse across Osborne Avenue so it is a positive step that he is moving forward with this plan.

Engineering staff presented the quit claim proposal at the December 13 Mayor and Council meeting. At that time, the Mayor and Council had no comment. If the Planning Commission has no concerns, the City Engineer's office will introduce an ordinance at the Regular Mayor and Council session on December 20.

Applicant/Commission Discussion: Mr. Thomas asked if the requested easements would preclude the use of the lot for parking. Staff indicated the easement would give the City permission to maintain its infrastructure. Mr. Bockmiller noted that a portion of the building is currently built over some of the pipe. Mr. Wright stated that any motion should mention that necessary easements be obtained to ensure maintenance by City agencies of wastewater and stormwater facilities.

MOTION: (Stone/Campbell) I make a motion that we recommend to the Mayor and Council the quitclaim proposed here, along with the condition that the easements be granted for the storm drain and sewer main.

DISCUSSION: None.

ACTION: APPROVED (ABSTAIN - Corderman)

Carter Lumber Company (formerly ProBuild) – 1743 Dual Highway, Revised Site Plan, Case No. ZS-2011-05.

Staff Report: (Copy of staff report in meeting file) Mr. Bockmiller noted that the original site plan was approved several years ago and has been kept active. The project as approved is not sufficient for the new tenant. This site plan was approved for the creation of an outdoor storage area for construction supplies associated with an adjacent business that deals in such materials (retail lumber and building supply store). The yard will be fenced, and traffic flow will be one way from Dual Highway with an exit driveway to Paul Smith Boulevard. Nine street trees (forest conservation street tree credit) will be provided along Paul Smith Boulevard, and a double staggered row of Emerald Green Arborvitae will be installed along the exterior of the fence along the side of the compound that faces Paul Smith Boulevard. The storage area will be gravel. The previously approved enclosure measures approximately 360 x 240 feet. Arborvitae trees will also be installed on either side of the exit driveway.

This revision extends the enclosure to the east (behind the adjacent hotel) and enlarges the previously approved area by approximately 70,000 square feet. The required 25-foot landscaped

buffer with a double row of evergreens has been provided along the eastern side lot line as well as along the entrance driveway (adjacent to the hotel). Identical landscaping is also shown along the northern side property line in an area already approved for this development. As a result of the expanded impervious area, the stormwater management facility will be enlarged to meet requirements. Existing dumpsters without enclosures will ~~connect them~~ **be enclosed**. The Board of Zoning Appeals approved an application for a change of a nonconforming use to convert a portion of the building to manufacturing of roofing truss systems. Carter Lumber is similar to 84 Lumber—a retail building supply company, but is geared toward contractors.

A site plan showing revisions discussed at the Plan Review Committee meeting has been submitted and is under review. Since there is only one meeting in December, staff placed this on the agenda with more outstanding comments than normal. The tenant is anxious to begin construction. The City Engineer has provided approval, and Planning staff has one condition. Conditional approvals have been received from the Water and Wastewater Divisions. The Fire Marshal has conditionally approved the site plan, contingent on a December 15 meeting concerning sprinklering of the building.

The forest conservation plan (FC-2011-02) for the prior approval will not be affected by this design. This plan called for part of the mitigation to be handled via fee-in-lieu contribution (at 30 cents per square foot) which has not yet been remitted. Staff recommended that a condition be placed on the approval that the fee-in-lieu contribution for forest conservation be remitted at the rate in effect when paid since this site plan has been revisited with major improvements. This would allow the City to avoid absorbing any inflationary costs that have occurred since the original approval of the site plan in 2011. Doing so would bring the forest conservation plan into conformance with current standards.

Staff recommended approval contingent upon satisfaction of the outstanding Fire Marshal, Water Division, Wastewater Division comments; and payment of forest conservation fee-in-lieu at the rate in effect when payment is made.

Applicant/Commission Discussion: Gordon Poffenberger, Fox & Associates, Inc., engineer for the developer, stated that the stormwater facility to be expanded is for water quality only. Concerning the Fire Marshal’s comment, Mr. Poffenberger stated that the building is currently sprinklered, but the Fire Marshal would like to discuss the new tenant’s operations before giving final approval.

MOTION: (Thomas/Campbell) I’ll move that we accept the site plan, contingent upon the conditions of the Fire Marshal, Water, Wastewater; that the fee-in-lieu be set at the time of submittal; and the dumpster enclosure.

DISCUSSION: None.

ACTION: APPROVED (Unanimous)

Mr. Wright said he visited the property and there is an offending shipping container on the hotel property next door. Also the rock pile created by Ben Shaool is unsightly. Mr. Bockmiller stated that the owner was working on the mass grading, but work has ceased. Mr. Wright asked that whatever has been disturbed needs to be reseeded. Mr. Bockmiller indicated that he will contact the developer. In response to a second comment by Mr. Wright, Mr. Bockmiller stated that the City has blocked off the end of Paul Smith Boulevard.

**Fisher Structures, LLC – 500 South Burhans Boulevard, Minor Site Plan,
Case No. SA-2016-04.**

Mr. Wright noted that staff has been working with the owner/developer to help them meet the City's minor site plan requirements. In the past the Planning Commission has had concerns with staff bringing cases to it for approval with numerous outstanding comments attached to the approval. This particular case has had issues and staff has requested that the commission review the site plan with a longer than typical list of conditions. This will allow staff to continue to work with the design professional to get the site plan up to current standards.

Cliff Hess of Fisher Structures was present.

Staff Report: (Copy of staff report in meeting file) This site plan is for the use of the site for the purpose of selling garden sheds, gazebos, carports and lawn furniture. Sales will be from a shed used as an office toward the rear of the site. Handicapped parking will be constructed in front of the office. Handicapped accessibility throughout the site for customers to view inventory will be provided by the use of a golf cart that will be used to transport clients around the site. Staff noted that much of the display area will be accessible via automobile. The driveway entrance will be improved with asphalt paving and a pedestrian sidewalk that will bypass the driveway apron in order to maintain handicapped accessibility.

This plan resulted from a notice of zoning violation due to the sheds being located too close to South Burhans Boulevard. The plan calls for removing existing concrete and asphalt between the driveway entrance and the adjacent building to the north to a width of 10 feet, plus 2.5 feet in the right-of-way extending to the sidewalk. The rear of this line will be used as a field marker to denote the closest that any non-building display can be to the street. Buildings such as sheds, gazebos, etc., will be required to meet the required 15-foot front structure setback from the street right-of-way which will be five feet behind the back of the landscaping bed. Landscaping shows one bush every 40 feet, and the Planning Commission was amenable to possibly waiving that requirement at a previous meeting. Staff is requesting that physical features on the ground be installed that would let drivers know where the sheds can be placed. This could be accomplished by moving the shrubs back to the building restriction line. Another visual line should be created for storage of non-building merchandise. Both of these measures would help to avoid future

zoning violations. Staff is recommending that shrubs be placed one every 15 feet instead of one every 40 feet as shown on the submitted plan.

In June, 2015, the Planning Commission granted a waiver to permit the applicant to process this application using the minor site plan checklist and to approve an alternate plan for landscaping that is substantially consistent with this plan (although there are some minor deviations). Since the Planning Commission first reviewed this, State Highway Administration constructed a sidewalk along South Burhans Boulevard which provides public sidewalk across the entire frontage of the site.

Given the limited amount of site disturbance, forest conservation does not apply to this project. The plan was submitted and routed for review. All agencies have approved it, with the exception of the Water and Wastewater Divisions.

Rather than require another round of revisions, Planning staff recommended approval subject to certain redline revisions that clarify landscaping placement and density. Staff believes it is important to make certain that the landscape plan, as implemented, will be effective in creating visual cues for staff that shed placements in the future do not violate the 15-foot front building setback and merchandise is not displayed in the 10-foot landscaping buffer. Following is a summary of the notes and redline revisions to be placed on the site plan:

- Add a note that no parking or vehicle storage associated with uses on the northern portion of this property shall be permitted within the area that is subject to this site plan. (There is an adjacent auto repair business that is beginning to stack cars on the Fisher Structures portion of the site.)
- Add a note that all improvements shown shall be completed by May 16, 2017.
- The arbitrary line of eight feet must be shown on the plan.
- Existing drive shall be noted as “new bituminous paving.”
- Move the row of bushes back to be just less than fifteen feet from the right-of-way to serve as the front boundary for shed placement.
- Staff recommended that shrub placement be one shrub every 15 feet.

Applicant/Commission Discussion: Mr. Bockmiller clarified that he chose the May 16, 2017, date for the deadline for completion of the work because if shrubs are planted now they will not survive the winter. Mr. Thomas asked if the sheds should be moved immediately after this meeting. Mr. Bockmiller stated that the commission could condition its approval on the sheds that are in violation being moved within a few weeks, rather than waiting for May 16, 2017.

Ms. Campbell was concerned that requiring the applicant to move all the sheds back would prevent customers from moving about the site to view sheds for sale. Mr. Hess of Fisher

Structures said moving the sheds back somewhat restricts circulation. Mr. Stone stated that his recollection was that it would narrow the driveway area, however, it would not be too narrow for customers to navigate. Mr. Hess pointed out that some of the buildings for sale are larger than a car and the delivery drivers will need room to place the buildings. Mr. Stone stated that the 15-foot setback is important. Mr. Bockmiller stated that the developer could file for a variance from the 15-foot setback.

Commission members were inclined to adopt the staff recommendation concerning spacing of the shrubs. Mr. Corderman asked Mr. Hess how this would impact the business. Mr. Hess said there is a considerable amount of concrete and this will make planting shrubs difficult; the grassed area will not be an issue. Mr. Hess asked if the commission would be agreeable to planting shrubs every 20 feet in the location of the concrete. Commission members had no objection to amending the planting distance from 15 feet to 20 feet apart in the concrete area north of the driveway entrance; and keeping the 15-foot spacing south of the access. Mr. Bockmiller stated that the applicant is proposing no trees and he has no objection to that based on the use. Mr. Wright noted the outstanding comments from the Water and Wastewater Divisions. Staff recommended that the motion outline the changes and to waive all other landscaping requirements to the ordinance.

MOTION: (Stone/Miller) I move that we approve this site plan but with the red notations [staff] put on it, with the stipulation that the spacing of the shrubbery be 15 feet apart south of the entrance and 20 feet apart north of entrance; and conditional approval of Water and Wastewater; and we waive all other landscaping requirements.

DISCUSSION: Ms. Campbell was uncomfortable placing a burden on the business—digging up all the concrete on the north end of the site may be difficult. Mr. Thomas asked if the area that has to be 10 to 15 back specifically has to be total sod or is it just that the setback and the shrubs have to be 15 feet back. Mr. Bockmiller stated that typically when a property is developed, there is a requirement for a 10-foot wide landscape buffer along the street, regardless of whether it is a building, parking, etc. What this does is it implements a complete minimum of 10 feet of landscaping across the front of this site. That is what was proposed. The thought is that this area is incredibly rough in appearance and there needs to be something that needs to be used in that area also to demark how close buildings and merchandise can be displayed from the street. In response to Ms. Campbell's concern, Mr. Stone agreed that it is a reasonable consideration. Mr. Corderman asked what the financial impact would be on the business. Mr. Hess was not prepared with specific figures, but believed the impact would be considerable. Mr. Bockmiller recalled that an option discussed at a previous meeting was to build raised blocks of planting beds. Mr. Wright recalled that that option was offered to the owner but this is

the plan they submitted. Mr. Wright asked “who is driving this ship” and is the commission going to design the site for them or approve their submitted design. Mr. Bockmiller pointed out that this property is in close proximity to the railroad and staff has been trying to come up with an alternate plan to get them to come into relative compliance. The plan, as submitted, addresses only 20% of what the code would typically require. Ms. Wheeler observed that this plan represents a tremendous amount of compromise. Mr. Bockmiller stated that the approved site plan could be amended in future. Commission members agreed to proceed with the motion as originally stated.

ACTION: APPROVED (Unanimous)

Enterprise Rent-A-Car – 700 Dual Highway, Site Plan, Case No. ZS-2016-08.

Staff Report: (Copy of staff report in meeting file) This site plan is for demolition of the existing restaurant and construction of a car rental facility consisting of a rental office and a private car wash. Nineteen parking spaces will be provided which meets the ordinance requirements for the use plus storage of a rental fleet of 26 vehicles. The developer has also arranged to use excess parking on the adjacent property (former Richardson’s Restaurant). The spaces behind the former Richardson’s building and between that building and the subject property would be used by Enterprise. This is by mutual agreement and can be revoked. Easements are not required because this is in excess of ordinance requirements. Should the agreement between the parties be concluded, storage of the rental fleet at this location would be limited to 26 vehicles. No design waivers are requested by the applicant. A note was put on the plan acknowledging the site’s proximity to a golf course and the potential for errant golf balls entering the site. Forest conservation does not apply to this project.

The plan was reviewed by all review agencies and they have approved the site plan with the exception of the City Engineer’s office. The City Engineer approved the plan, subject to compliance with the requirements of the State Highway Administration (SHA) regarding the site entrance. Staff recommended approval, subject to compliance with any comments submitted by the State Highway Administration.

Applicant/Commission Discussion: Mr. Stone questioned why SHA needed to approve the plan since this is an existing building with an existing entrance and exit. Brandon Rowe of Bohler Engineering stated that one of the access points was closed under this plan, which requires a review by SHA. Besides the connection to the former Richardson’s property, nothing else has changed since the commission reviewed the stormwater management concept plan for the project.

- MOTION:** (Thomas/Miller) I make a motion we approve the site plan with the outstanding conditions from SHA, Water Division, Wastewater Division, and Soil Conservation District.
- DISCUSSION:** None.
- ACTION:** APPROVED (Unanimous)

Planning Commission Business:

Annual Shopping Center Report. Planning staff completed its annual occupancy study of the 23 major retail shopping centers in the City of Hagerstown and within the Medium-Range Growth (MRGA). The purpose of the study is to analyze current occupancy levels of each shopping center, how these levels have changed over the last year, and provide a summary of statistics and trends that can be useful tools for future land use planning and economic development. The report is limited to centers with 40,000 square feet or greater as of October 31, 2016.

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. Following are highlights from this year's report:

Page 1:

- Giant Eagle Shopping Center was removed from the list since most of the uses are office related.
- Ms. Wheeler noted a discrepancy in the last paragraph: should be 12 major shopping centers, instead of 11.

Page 2:

- Figure 1 summarizes centers within the Corporate Limits.
- The South End shopping center saw the single biggest decrease due to the cabinets store moving out.
- The 9% decline at the Nichols Plaza Shopping Center does not take into account the Goodwill.
- Stone House Square is seeing an increase in occupancy.
- Kenly Village Shopping Center added a pizza shop.
- Overall there was a slight decrease, but the City trended at 89.2% occupancy; at one time occupancy rates had been as low as 80%.

Page 3:

- Figure 2 – data reports on the number of vacant units in each shopping center (81% occupied).

Page 4:

- The Valley Mall logged the largest decrease with the loss of Macy's. The stores inside the mall are doing well. Many of the smaller interior stores are occupied.
- Hagerstown Town Square also decreased. Tenants in the smaller spaces come and go; since last year two tenants moved out.
- Valley Plaza lost Hard Times Café.
- North Village Shopping Center is now fully occupied. Brook Lane has absorbed all the vacant spaces in that center.
- Premium Outlets, Crosspoint, and Old Orchard Shopping Center all saw increases.

Page 6:

- Long Meadow Shopping Center – Mr. Bockmiller updated the commission on the Sears Building. It is his understanding that permits will be applied for in early 2017.
- The new shopping center site in the south end adjacent to Sheetz on South Potomac Street is currently being prepped for marketing; staff has been contacted about possibly connecting the site to the Sheetz site to accomplish internal circulation.
- The Aschenbach site might qualify for inclusion in future shopping center studies. As an aside, Mr. Bockmiller stated that an improved plan is being proposed for the site plan instead of what was shown on the sketch plan.
- Sears and K-Mart may be the next large retailers to close; Mr. Wright noted that the Sears Automotive Center has already closed.

Page 8:

- Figure 7 sorts the different centers by industry classification. Mr. Stone suggested that the Centre at Hagerstown could be considered a power center.

Ms. Campbell said it will be interesting to see how the popularity of internet shopping affects traditional retail shopping. Mr. Rohrbaugh stated that the Valley Mall has been incorporating restaurants into its complex and making them a destination to keep people coming to the mall. Over the years, he believed developers will be getting 0more creative in finding tenants for their centers.

2017 Meeting Schedule.

Mr. Wright pointed out two variations from the usual schedule.

**Planning Commission
MINUTES – Regular Meeting**

**December 14, 2016
City of Hagerstown, Maryland**

MOTION: (Wheeler/Campbell) I will make that motion to accept the meeting schedule.
DISCUSSION: None.
ACTION: APPROVED (Unanimous)

Board of Zoning Appeals Agenda – December Hearing.

No comments.

Comprehensive Plan Updated: Introduction/Implementation.

Discussion on this item was postponed to the January 11, 2017, meeting.

Adjourn. It was moved and seconded that the meeting adjourn (8:50 p.m.)

1/11/2017

Approved



Debra C. Calhoun - Secretary