

Mayor and Council Executive Session, Special Session (57th voting Session), and Work Session December 13, 2022 Agenda

"The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe, and vibrant neighborhoods."

"The City of Hagerstown shall be a community focused municipality"

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

"Be not afraid of growing slowly; be afraid of only standing still." Chinese Proverb

EXECUTIVE SESSION

- 3:00 PM** 1. **The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.**
2. Executive Session Agenda

4:00 PM SPECIAL SESSION

1. Introduction of an Ordinance: Authorizing the Sale of Property Located at 239 N. Locust Street (Alms House)
2. Approval of Resolution: Authorizing the Sale of Property Located at 216 S. Prospect Street

4:00 PM WORK SESSION

- 4:05 PM** 1. Doleman Black Heritage Museum Presentation - *Alesia Parson McBean*
- 4:10 PM** 2. Preliminary Agenda Review
- 4:20 PM** 3. 2022 Annual Package of Proposed Land Management Code Amendments - *Stephen Bockmiller, Development Review Planner and Zoning Administrator*
- 4:30 PM** 4. 2022 Comprehensive Rezoning - *Kathleen Maher, Director of Planning and Code Administration*
- 4:40 PM** 5. Request for Allocation of ARPA Funds: City-Wide Restaurant Ready Grant Program ~ *Chris Siemerling, Economic Development Specialist and Jill Thompson, Director DCED*
- 5:00 PM** 6. Program Open Space (POS) Annual Program - *Eric Deike, Director of Public Works*
- 5:15 PM** 7. Street Closure Request & Event Changes - Antietam Velo Club Bike Race and 5K - *Eric Deike, Director of Public Works, Amy Riley, Recreation Coordinator, and Joe Jefferson, Antietam Velo Club*
- 5:25 PM** 8. Request from Blackthorn Capital Partners to Convey Land - *Rodney Tissue, City Engineer*

- 5:40 PM** 9. Review of Speed Camera Contract - *Chief Paul "Joey" Kifer*
- 5:50 PM** 10. Proposed Community Development Grant (CDBG) Annual Action Plan Amendments: Reallocation of Alms House CDBG Funding and CDBG Emergency Repair Program Individual Grant Maximum - *Margi Joe, Community Development Manager*
- 6:05 PM** 11. Review of Lease - The Foundry Pop-Ups ~ *Doug Reaser, Business Development Specialist*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

October_4__2022_Executive_Session.pdf

Description

Executive Session Agenda



EXECUTIVE SESSION

MAYOR & CITY COUNCIL

OCTOBER 4, 2022

AGENDA

3:00 p.m. EXECUTIVE SESSION

1. To discuss the appointment, employment, assignment, promotion, discipline, demotions, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; (#1)
**Hagerstown Youth Council Members*
2. To consider the acquisition of real property for a public purpose and matters directly related thereto; (#3)
**Proposed Antietam Street Parking Deck*
**Acquisition of other property*
3. To consult with counsel to obtain legal advice; (#7)
**Consult with attorney – 2 items*

***AUTHORITY: Annotated Code of Maryland, General Provisions Article: Section 3-305(b)**
(Subsection is noted in parentheses)

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: October 4, 2022

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 3:00 p.m.

AUTHORITY: **ANNOTATED CODE OF MARYLAND, GENERAL PROVISIONS ARTICLE:** **Section 3-305(b) :**

1. To discuss:
 - ☒ (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - ☐ (ii) any other personnel matter that affects one or more specific individuals;
- ☐ 2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business;
- ☒ 3. To consider the acquisition of real property for a public purpose and matters directly related thereto;
- ☐ 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- ☐ 5. To consider the investment of public funds;
- ☐ 6. To consider the marketing of public securities;
- ☒ 7. To consult with counsel to obtain legal advice;
- ☐ 8. To consult with staff, consultants, or other individuals about pending or potential litigation;
- ☐ 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- ☐ 10. To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
 - (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans;
- ☐ 11. To prepare, administer or grade a scholastic, licensing, or qualifying examination;
- ☐ 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct; or
- ☐ 13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
- ☐ 14. Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- ☐ 15. Administrative Function

EXECUTIVE SESSION AGENDA

City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Executive Session Agenda

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

December_13__2022_Executive_Session.pdf

Description

Executive Session Agenda



**MAYOR AND CITY COUNCIL
EXECUTIVE SESSION
DECEMBER 13, 2022
AGENDA**

Vision Statement:

The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe and vibrant neighborhoods.”

Mission Statement:

“The City of Hagerstown shall be a community focused municipality.”

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

3:30 p.m. EXECUTIVE SESSION

1. To consider the acquisition of real property for a public purpose and matters directly related thereto; (#3)
**Acquisition of property for City operations*
2. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; (#4)
**Business proposal*

***AUTHORITY: Annotated Code of Maryland, General Provisions Article: Section 3-305(b)
(Subsection is noted in parentheses)**

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301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617*

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: December 13, 2022

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 3:30 p.m.

AUTHORITY: **ANNOTATED CODE OF MARYLAND, GENERAL PROVISIONS ARTICLE:** **Section 3-305(b) :**

1. To discuss:
 - ☐ (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - ☐ (ii) any other personnel matter that affects one or more specific individuals;
- ☐ 2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business;
- ☒ 3. To consider the acquisition of real property for a public purpose and matters directly related thereto;
- ☒ 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- ☐ 5. To consider the investment of public funds;
- ☐ 6. To consider the marketing of public securities;
- ☐ 7. To consult with counsel to obtain legal advice;
- ☐ 8. To consult with staff, consultants, or other individuals about pending or potential litigation;
- ☐ 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- ☐ 10. To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
 - (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans;
- ☐ 11. To prepare, administer or grade a scholastic, licensing, or qualifying examination;
- ☐ 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct; or
- ☐ 13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
- ☐ 14. Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- ☐ 15. Administrative Function

EXECUTIVE SESSION AGENDA

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**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Introduction of an Ordinance: Authorizing the Sale of Property Located at 239 N. Locust Street (Alms House)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

121322_SS_239_N._Locust.pdf

Description

Ordinance: Authorizing Sale of Property at 239 N. Locust Street

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: December 13, 2022

TOPIC: **Introduction of an Ordinance: Authorizing the Sale of Property
Located at 239 N. Locust Street, Hagerstown, Maryland**

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move to introduce an ordinance authorizing the sale of property located at 239 N. Locust, Hagerstown, MD to Augustine M. Boyce for a purchase price of \$45,000. The sale will provide the opportunity for new investment and redevelopment at 239 North Locust Street. The sale will be in accordance with all of the terms and conditions outlined in the attached Purchase Agreement.

DATE OF INTRODUCTION:	12/13/2022
DATE OF PASSAGE:	12/20/2022
EFFECTIVE DATE:	01/21/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A PURCHASE
AGREEMENT BETWEEN THE CITY OF HAGERSTOWN AND AUGUSTINE BOYCE
FOR THE SALE OF REAL PROPERTY LOCATED AT 239 NORTH LOCUST
STREET, HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, the City of Hagerstown, Maryland is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland;

WHEREAS, the City owns improved real property located at 239 North Locust Street, Hagerstown, Maryland and described in a deed dated November 10, 2004 and recorded among the Land Records of Washington County at Liber 2492, folio 55 (“the Alms House Property”);

WHEREAS, Augustine Boyce is a Virginia resident who owns a controlling interest in improved real property located at 231 North Locust Street, Hagerstown, Maryland and described in a deed dated May 1, 2014 and recorded among the Land Records of Washington County at Liber 4754, folio 223 (“the AuChar Property”);

WHEREAS, the AuChar Property is located immediately to the south of the Alms House Property;

WHEREAS, Augustine Boyce desires to purchase the Alms House Property, as well as all improvements thereon;

WHEREAS, in exchange for conveyance of the Alms House Property, Augustine Boyce agrees to pay the City the monetary consideration of FORTY-FIVE THOUSAND DOLLARS and 00/100 CENTS (\$45,000.00); and

WHEREAS, the City has determined that the Alms House Property is no longer needed for a public purpose; and

WHEREAS, the introduction of this Ordinance shall constitute the twenty (20)-day notice of the proposed transfer as required by law; and

WHEREAS, attached hereto and incorporated herein is a Purchase Agreement for the sale of the Alms House Property to Augustine Boyce; and

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to enter into said Purchase Agreement.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim.
2. That the Mayor and Council find that the Alms House Property is no longer needed for any public purpose.
3. That the sale of the Alms House Property pursuant to the terms of the attached Purchase Agreement is hereby approved.
4. That the Mayor be and is hereby authorized to execute and deliver the Purchase Agreement with Augustine Boyce, a copy of which is attached hereto and incorporated herein by reference.
5. That City Staff be and are hereby authorized to execute and deliver any additional documentation and take any additional steps necessary to effectuate the purpose of this ordinance and satisfy the terms of the aforesaid Purchase Agreement.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

By:_____
Emily N. Keller, Mayor

Date of Introduction: December 13, 2022
Date of Passage: December 20, 2022
Effective Date: January 21, 2023

PREPARED BY:
& MORTON, LLC
CITY ATTORNEY

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "**Agreement**") is made as of the ___ day of 2023, (**the "Effective Date"**) by Augustine M. Boyce ("**Buyer**") and the City of Hagerstown, a Maryland municipal corporation ("**Seller**").

RECITALS

A. Seller is the owner in fee simple of certain improved real property consisting of one (1) parcel of land located in Hagerstown, Maryland known as 239 North Locust Street (Tax Map 306; Parcel 0683) and identified in a Deed to Seller dated November 10, 2004, and recorded at Liber 2492 , Folio 0055, among the Land Records of Washington County, Maryland. The foregoing real property ("Real Property") and improvements thereon ("Improvements") are collectively referred to herein as the "**Property**".

B. Seller has agreed to sell the Property to Buyer, and Buyer has agreed to purchase the Property from Seller, under all of the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated herein by reference as a substantive part of this Agreement.

2. Purchase and Sale of the Property. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property in accordance with the terms of this Agreement.

3. Purchase Price: Terms of Payment.

3.1 Purchase Price. The aggregate purchase price for the Property ("**Purchase Price**") shall be FORTY-FIVE THOUSAND DOLLARS and 00/100 CENTS (\$45,000.00), ONE THOUSAND DOLLARS (\$1,000.00) of which shall be due and payable as a deposit ("Deposit") simultaneously with the execution of this Agreement, with the balance of the Purchase Price due at settlement, subject to adjustments and prorations as set forth below and in Section 5.

3.2 Terms of Payment. Upon closing under this Agreement, the Purchase Price shall be paid to Seller in immediately available funds by cash, certified check or wire transfer.

4. Closing. The closing of the purchase and sale of the Property shall be held on or **before February 28, 2023** at the office of Buyer's attorney or such other mutually agreeable place in Washington County, Maryland.

4.1 Seller's Closing Deliverables. At the closing, Seller shall deliver the following documents (collectively the "Closing Documents") and such other items described below:

4.1.1 a special warranty deed to the Real Property including a covenant of further assurances, duly executed and acknowledged by Seller and in proper form for recording, conveying fee simple title to the Real Property to Buyer or its designee subject to all conditions, restrictions, rights of way and easements of record and any Permitted Exceptions. Buyer hereby acknowledges and agrees that the deed shall contain a covenant prohibiting use of the Property as a bail bond business, a store front church, Hookah Shop, or tattoo business for a period of 10 years from the date of closing.

4.1.2 a certificate updating the representations and warranties made pursuant to Section 7;

4.1.3 a FIRPTA affidavit;

4.1.4 any transfer tax statements, declarations, filings and other similar documents that may be necessary, to the extent the same are required to be executed by Seller

4.1.5. usual and customary Closing Affidavits as required by the Buyer's title insurance carrier;

4.1.6 a closing statement conforming to the proration and other relevant provisions of this Agreement;

4.1.7 such other information as Buyer may reasonably require to demonstrate Seller's due authorization and performance of this Agreement and the foregoing documents; and

4.1.8. Such other information as the Settlement Agent may reasonably require to demonstrate Seller's due authorization and performance of this Agreement and the foregoing documents.

4.2 Buyer's Closing Deliverables. At the closing, Buyer shall deliver the following:

4.2.1 the balance of the Purchase Price as adjusted pursuant to the terms hereof;

4.2.2 a closing statement conforming to the proration and other relevant provisions of this Agreement; and

4.2.3 a certificate updating the representations and warranties made pursuant to Section 8.

5. Closing Adjustments/Costs.

5.1 Expense Adjustments. The following items of expense shall be adjusted as of 11:59 p.m., of the day immediately preceding the Closing Date such that Seller shall be responsible for all days prior to the Closing Date and Purchaser shall be responsible for the Closing Date and all days thereafter:

5.1.1 Taxes. Real estate, personal property, ad valorem taxes, assessments payable in installments and front foot benefit charges payable in installments that are due and payable with respect to Seller and the Property, respectively, on the basis of the most current bills or other current information available. Assessments payable in a lump sum and not in monthly installments, if any, for improvements completed prior to the Closing Date, whether assessment therefor has been levied or not, shall be paid by Seller or allowance therefor made at the closing.

5.1.2 Utilities. Fuel, water and sewer service charges, and charges for gas, electricity, telephone and all other public utilities. If there are meters on the Property measuring the consumption of water, gas or electric current, Seller shall cause such meters (for utilities for which Seller, and not tenants, are responsible) to be read not more than one (1) day prior to the Closing Date, and shall pay promptly all utility bills for which Seller is liable upon receipt of a statement therefor. Purchaser shall be liable for and shall pay all utility bills for services rendered after such meter readings.

5.2 Final Reconciliation. The adjustments described in this Section 5 shall be paid on the Closing Date. If the amount of any of the adjustments described in this Section 5 cannot be determined on the Closing Date, the adjustment therefor shall be made within thirty (30) days after the Closing Date by cashier's check. In making the adjustments required by this subsection, Seller shall be given credit for all amounts prepaid for the Closing Date and any period thereafter, and Seller shall be charged with any unpaid charges for the period prior to the Closing Date.

5.3 Closing Costs. Buyer shall pay all expenses of examination of title, title insurance commitment and title premiums. All state, county, city, local, and municipal transfer and recordation taxes, if any, owing with respect to the sale of the Property, if any, shall be paid by Buyer. Each of Buyer and Seller shall pay their own attorneys' fees and expenses incurred in connection with this negotiation of this Agreement and the closing of the transactions contemplated hereby.

6. Title. Buyer shall have the right to inspect the status of title to the Property. Promptly after execution hereof, Buyer may obtain at Buyer's expense a title report or title commitment ("**Commitment**") and, at Buyer's election, a UCC lien search for the Property. Buyer may also obtain, at Buyer's sole cost and expense, a current ALTA/ASCM survey of the Property. In the event the Commitment discloses or Buyer becomes aware of any lien on the Property created by Seller that can be discharged or satisfied by the payment of money ("**Monetary Title Matters**"), Seller shall discharge or satisfy such Monetary Title Matters on or prior to the Closing Date. If Seller fails to discharge or satisfy any such Monetary Title Matters as aforesaid, Buyer, at its sole option, and in addition to any other rights and remedies it may have under this Agreement, at law and/or in equity, shall have the right to discharge and satisfy

the same from the proceeds of the Purchase Price to be paid to Seller at closing. Title to the Property shall be subject only to the following matters: (i) the lien of real estate taxes and sewer and water rents not yet due and payable; and (ii) such matters appearing on the Commitment to which Buyer shall fail to object during the Feasibility Period (defined below) (collectively, the "**Permitted Exceptions**"). Title to the Property shall be insurable, together with such title insurance endorsements as Buyer may reasonably request, at regular rates (including applicable rates for such endorsements) from a title insurance company licensed in the State of Maryland and selected by Buyer. In the event Buyer's review of title to the Property reveals any matters that are unacceptable to Buyer in its sole and absolute discretion (other than Monetary Title Matters which Seller is required to remedy as aforesaid), Buyer shall notify Seller thereof within twenty (20) days after the date on which an Ordinance for the Sale of the Property is introduced by the Mayor and City Council (the "Objection Notice"). Within ten (10) days after receipt of the Objection Notice, Seller shall notify Buyer in writing, whether Seller shall undertake to cure such unacceptable exception(s). In the event Seller elects not to cure any unacceptable exception or is unable with the exercise of due diligence to satisfy said objection before the Closing Date, Buyer may, at its option, either (a) accept title subject to the objections raised by Buyer, without an adjustment of the Purchase Price, in which event each of said objections shall be deemed waived for all purposes and considered a Permitted Exception, or (b) terminate this Agreement. If Buyer shall terminate this Agreement, then (i) this Agreement shall be deemed to have terminated as of the date of Buyer's notice without need for any further action by either party, (ii) the Deposit shall be returned to the Buyer and (iii) neither Buyer nor Seller shall have any further obligations to one another hereunder, except for those which expressly survive termination of this Agreement.

7. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer, all of which are made as of the Effective Date and shall be true and correct in all material respects on and as of the Closing Date.

7.1 Enforceability: Authorization. This Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto are, or will be when executed and delivered by Seller, the legal, valid and binding obligations of Seller and enforceable against Seller in accordance with its terms. Seller has obtained all consents necessary for, and possesses full authority and legal right to authorize Seller's entry into and performance of this Agreement, the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto and/or the transactions contemplated hereby or thereby.

7.2 Ownership of the Property. Seller is the fee simple record and beneficial owner of the Property. No person or entity has an option, right of first refusal or other similar right to acquire all or any portion of the Property. Seller has performed all obligations under and is not in default in complying with the terms and provisions of any covenants, conditions, restrictions, rights-of-way or easements applicable to the Property.

7.3 No Conflicts. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Seller is a party.

7.4 Third Party Consents. All consents required from any governmental authority or third party in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby have been made or obtained or shall have been made or obtained by the Closing Date.

7.5 Leases. The following leases exist on the Property: None.

7.6 Other Agreements. Seller is not a party to, nor does Seller have knowledge of, any agreements relating to the Property.

7.7 Condemnation, Violation of Laws, Etc. Excepting City Code violations which have been noted but not yet cited, Seller has not received notice of, and, to Seller's knowledge, there are no existing violations of any federal, state, county or municipal laws, ordinances, orders, codes, regulations or requirements affecting all or any portion of the Property, including, without limitation, violations of housing, building, safety, health, environmental, fire or zoning ordinances, codes and regulations of the respective jurisdictions within which the Property is located or any certificate(s) of occupancy issued for the Property.

7.8 No Flood Hazard Area. To Seller's knowledge, no portion of the Real Property is located in an area designated by any governmental entity as a flood hazard area.

7.9 Environmental Condition. Seller makes no representations as to the environmental condition of the Property and no representation as to the presence of any Hazardous Conditions in and around the Property. "Hazardous Conditions" shall mean the presence on, in or about the Property (including ground water) of Hazardous Materials, the concentration, condition, quantity, location or other characteristic of which fails to comply with applicable Environmental Laws. "Hazardous Material" shall mean any chemical, substance, waste, material, equipment or fixture defined as or deemed hazardous, toxic, a pollutant, a contaminant, or otherwise regulated under any Environmental Law, including but not limited to, petroleum and petroleum products, waste oil, halogenated and non-halogenated solvents, PCBs, asbestos and asbestos containing materials.

7.10 Litigation. No proceeding, suit or litigation relating to Seller or the Property or any part thereof is pending or, to Seller's knowledge, threatened in any court or other tribunal or before any Governmental Authority. Seller is not the subject of, nor has Seller received any written notice of or threat that it has or will become the subject of, any actions or proceedings under the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("Bankruptcy Code"), or under any other federal, state or local laws affecting the rights of debtors and/or creditors generally, whether voluntary or involuntary and including, without limitation, proceedings to set aside or avoid any transfer of any interest in property or obligations, whether denominated as a fraudulent conveyance, preferential transfer or otherwise, or to recover the value thereof or to charge, encumber or impose a lien thereon.

7.11 FIRPTA. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "**Code**"), and the sale of the Property is not subject to the federal income tax withholding requirements of such section of the Code.

7.12 Mechanic's Liens. There are no claims for labor performed, materials furnished or services rendered in connection with the development, construction, improvement, renovation or repair of the Property with respect to which liens may or could be filed against the Property, either pending or threatened.

7.13 Tax Matters. No federal or other taxing authority (each, a "**Taxing Authority**" and collectively, the "**Taxing Authorities**") has asserted in writing any tax deficiency, lien, interest or penalty against Seller or the Property that has not been paid, and there is no pending audit or inquiry from any Taxing Authority relating to Seller or the Property, and to Seller's knowledge, no event has occurred and no condition or circumstance exists which presents a material risk that any tax deficiency, lien, interest, penalty or other assessment will be imposed against Seller or the Property.

7.14 Re-Zoning. Seller is not a party to, nor does Seller have any actual knowledge of, any threatened proceeding for the rezoning of the Property or any portion thereof, or the taking of any other action by governmental authorities that would have an adverse or material impact on the value of the Property or use thereof.

7.15 Condemnation. Seller has not received any written notice advising it of any pending or threatened condemnation or other governmental taking proceedings affecting all or any part of the Property and knows of no plans on the part of the Seller to institute any such proceeding.

7.16 Seller is in the process of granting an access easement to benefit the property immediately to the south and which is owned by Buyer. Buyer is aware of said easement and has no objection to same being imposed upon the property.

7.17 Except as otherwise provided herein Seller is making no warranties as to the condition of the property and the property is being sold "AS IS."

8. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that: (i) Buyer is Augustine M. Boyce, is an individual resident of the Commonwealth of Virginia; (ii) this Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by Buyer pursuant hereto are, or will be when executed and delivered by Buyer, legally binding on, and enforceable against, Buyer in accordance with their respective terms except as the same may be limited by applicable bankruptcy, insolvency, reorganization, receivership and other similar laws affecting the rights and remedies of creditors generally and by general principles of equity (whether applied by a court of law or equity); and (iii) neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Buyer is a party.

9. Seller Covenants.

9.1 Inspection. Seller shall make available to Buyer during normal business hours prior to the Closing Date all information in Seller's or its management agent's

possession or control concerning the Property, including, without limitation, all books and records and plans and specifications.

9.2 Operation and Maintenance. Seller agrees that from the date of this Agreement to the Closing Date, Seller will, at its sole cost and expense: (i) maintain the Property in its current condition (ii) comply with and perform all material provisions and obligations to be complied with and/or performed by Seller under each Contract; (iii) not mortgage or otherwise encumber all or any part of the Property; and (iv) maintain in full force and effect its current all-risk casualty insurance policy for the Property.

9.3 Contracts. Seller shall not enter into any Contracts of any kind with respect to the Property or any portion thereof, except as mutually agreed.

9.4 Leases. Seller shall not enter into any leases or other occupancy agreements of any kind with respect to the Property or any portion thereof.

9.5 Correspondence. Promptly upon receipt, Seller shall provide Buyer with copies of any notices (including all written notices and summaries, including requests for rental concessions), and sales reports and correspondence received from tenants, neighboring property owners, any insurance company which carries insurance on the Property or Board of Fire Underwriters, from any Governmental Authorities or from any other person or entity with respect to the Property or any portion thereof.

9.6 Title and Encumbrances. Seller hereby agrees that, after the date of this Agreement, it shall not take any action affecting title to the Property or encumbering the Property (except for actions effectuating the release of liens or encumbrances in accordance with the terms of this Agreement) unless consented to by Buyer, which consent may be withheld in Buyer's sole and absolute discretion. In all events, Seller will cause to be removed, paid off, released and/or discharged at closing any mortgage, judgment, deed of trust, lien or other evidence of a monetary charge against the Property and any lien or other encumbrance affecting title to the Property and arising subsequent to the date of the Commitment referred to above.

9.7 Real Estate Tax Assessments. Prior to the Closing Date, Seller shall not institute any proceeding or application for a reduction in the real estate tax assessment of the Real Property for any tax year without the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

9.8 Payment of Taxes. Subject to proration in Paragraph 5, Seller shall pay all federal, state, county, local and foreign income, excise, real and personal property, sales and other taxes, if any, which first become due and payable prior to or on the Closing Date.

9.9 Claims. Seller hereby agrees to cooperate with Buyer in connection with the pursuit of any claims resulting from or based on an event that occurred prior to closing that are covered under the casualty or liability insurance policies for the Property that were in effect prior to closing to assist Buyer in filing a claim under such insurance policies, including, but not limited to executing any assignment of such policy or proceeds to Buyer.

The obligations of Seller under this Section shall survive closing for a period of three (3) years.

10. Buyer Covenants. RESERVED

11. Conditions Precedent to Buyer's Obligation to Purchase. The obligation of Buyer to acquire the Property and to perform the other covenants and obligations to be performed by it on the Closing Date shall be subject to the following conditions precedent (which conditions precedent shall inure solely to the benefit of Buyer and no other person or entity, including, without limitation, Seller, shall have any right to waive or defer any of such conditions in whole or in part):

(i) Seller shall have performed in all material respects its covenants and obligations required by this Agreement to be performed or complied with by it on or before the Closing Date.

(ii) All of Seller's representations and warranties in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date and Seller shall have executed and delivered to Buyer, upon written Request by Buyer, a certificate, dated as of the Closing Date, to the foregoing effect.

(iii) Delivery of possession of the Property to Buyer at Closing, which shall be in substantially the same condition it is in on the date of this Agreement, subject to casualty and/or condemnation and the provisions of this Agreement relating thereto. The property shall be in broom-clean condition at Closing.

(iv) Title to the Property on the Closing Date shall be in accordance with Section 6, above.

12. Condemnation and Casualty. If prior to the Closing Date Seller receives written notice of any pending or threatened condemnation proceedings or actions or if there occurs any damage, destruction or casualty with respect to all or any portion of the Property, Seller shall promptly notify Buyer thereof in writing. In the event there occurs: (i) any actual or pending condemnation of any portion of the Property; or (ii) any casualty, Buyer shall have the right to terminate this Agreement by giving notice to Seller within thirty (30) days after receipt of Seller's notice advising Buyer of the occurrence of any casualty or condemnation. If: (i) Buyer fails to notify Seller of Buyer's election to terminate this Agreement within such 30-day period; or (ii) Buyer elects to proceed to closing and not terminate this Agreement, then Buyer shall proceed to closing, without adjustment of the Purchase Price, subject to such condemnation or casualty, in which event at closing, Seller shall, as applicable: (A) assign to Buyer any condemnation award or rights thereto paid or payable or otherwise accruing to Seller on account of such condemnation; or (B) assign to Buyer all of Seller's right, title and interest in and to the proceeds of any casualty insurance payable to Seller on account of such casualty and pay to Buyer an amount equal to any deductible or coinsurance applicable to the casualty insurance under such insurance policies. If Buyer timely elects to terminate this Agreement as aforesaid, the Deposit shall be returned to

the Buyer and neither Buyer nor Seller shall have any further rights or liability under this Agreement except for such rights and liabilities as expressly survive termination hereof.

13. Breach/Termination.

13.1 Breach by Seller. If Seller shall fail to perform its covenants or agreements hereunder and such failure shall continue for five (5) days after written notice from Buyer, or if any of Seller's representations and warranties set forth in this Agreement are not true and correct in all material respects on the date hereof or on the Closing Date, Buyer shall have the right, at its sole option, to: (i) terminate this Agreement with neither party having any further rights or obligations to the other under this Agreement except for (a) return of the Deposit to the Buyer and (b) such rights and obligations as expressly survive termination of this Agreement; or (ii) pursue any legal or equitable remedies to which Buyer may be entitled on account of the foregoing, including, without limitation, specific performance and recovery of actual third party costs and expenses incurred by Buyer with respect to this Agreement.

13.2 Breach by Buyer. If Buyer shall fail to perform any of the covenants or agreements to be performed by it hereunder and such failure shall continue for five (5) days after written notice from Seller (except there shall be no notice requirement for a failure to terminate this Agreement prior to the expiration of the Feasibility Period), or if any of Buyer's representations and warranties set forth herein shall not be true and correct in all material respects as of the date made or deemed made, Seller's remedy, at its option, shall be to: (i) terminate this Agreement with neither party having any further rights or obligations to the other under this Agreement except such rights and obligations as expressly survive termination of this Agreement; and also retain the Buyer's deposit described in Paragraph 3.1; or (ii) pursue any legal or equitable remedies to which Seller may be entitled on account of the foregoing, including, without limitation, recovery of consequential damages and actual third party costs and expenses incurred by Seller with respect to this Agreement.

13.3 Litigation Costs. In the event of any litigation between the parties with respect to this Agreement, including any action for specific performance that may be brought by Buyer as provided above, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses.

14. Brokers. Each party hereto represents and warrants to the other that it has dealt with no brokers or finders in connection with this transaction. Each of the parties hereto hereby represents and warrants that neither has authorized any real estate broker, agent or finder to act on its/their behalf in connection with the transaction contemplated by this Agreement, nor does it have any knowledge of any other broker, agent or finder purporting to act on its behalf in respect to this Agreement and the sale of the Property to be made pursuant hereto, and that the other party hereto shall have no liability to any broker for compensation, commission or otherwise. Each party agrees that it shall indemnify, defend and save the other harmless from and against any cost, expense, claim, loss, liability or damages, including reasonable attorneys' fees, and court costs, resulting from a breach of the foregoing representation and warranty by such party. The provisions of this Section shall survive closing or termination of this Agreement.

15. Entire Agreement/Modification. This Agreement, including any exhibits attached hereto, and the Closing Documents contain the entire agreement between the parties relating to the conveyance of the Property, all prior negotiations between the parties are merged into this Agreement and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between them other than as set forth in this Agreement, including the exhibits attached hereto, and the Closing Documents. No change or modification of this Agreement or any of the Closing Documents shall be valid unless the same is in writing and signed by each of the parties hereto or thereto. No waiver of any of the provisions of this Agreement or any of the Closing Documents executed or to be executed in connection herewith shall be valid unless in writing and signed by the party against whom it is sought to be enforced.

16. Miscellaneous.

16.1 Binding Effect. This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the respective personal representatives, successors and permitted assigns of the parties hereto.

16.2 Governing Law: Venue. The provisions of this Agreement shall be governed by the laws of the state of Maryland, without regard to the conflicts of laws provisions thereof. Any suit involving any dispute or matter arising under this Agreement may only be brought to the Circuit Court for Washington County, Maryland. All parties hereto consent to such jurisdiction.

16.3 Notices. Any notice, demand, consent/election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and delivered (i) personally, or (ii) sent by certified or registered mail, postage prepaid, return receipt requested, or (iii) by a nationally recognized overnight courier. A notice must be addressed to a party as indicated below. Any notice hereunder shall be deemed duly delivered (a) when delivered, with written receipt, if personally delivered or delivered by nationally recognized overnight courier, or (b) three (3) days after mailing, if mailed by certified mail, return receipt requested, postage prepaid. Any party may designate a change of address by written notice to the other in accordance with the provisions set forth above, which notice shall be given at least ten (10) days before such change of address is to become effective.

Seller's notice address:

Scott Nicewarner
City Administrator
City of Hagerstown
1 E. Franklin Street
Hagerstown, MD 21740

With a copy to:

Jason Morton
Salvatore & Morton, LLC
82 West Washington St
Ste 100
Hagerstown, MD 21740

Buyer's notice address:
Augustine M. Boyce
229-231 N Locust Street
Hagerstown, MD 21740

With a copy to:
Christopher Joliet, Esquire
223 North Prospect Street
Hagerstown, Maryland 21740

16.4 Incorporation. Each and all of the exhibits and schedules attached hereto are hereby incorporated into this Agreement by reference.

16.5 Further Assurances. Seller agrees that it will, at any time and from time to time after the Closing Date, upon reasonable request of Buyer, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required for the better assigning, transferring, granting, assuring and confirming to Buyer, or to its successors and assigns of, or for aiding and assisting in collecting and reducing to possession, any or all of the assets or property being transferred to Buyer pursuant to this Agreement; provided, however, that any instruments to be executed by Seller shall be in form and substance reasonably acceptable to Seller and in no event shall Seller be required to incur any liability or obligation in addition to that which it is obligated to incur under this Agreement. The provisions of this Section shall survive the closing of the transactions contemplated by this Agreement.

16.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument; provided, however, in no event shall this Agreement be effective unless and until signed by all parties hereto. Fax or email copies of this Agreement shall be sufficient for all purposes.

17. Risk of Loss. Risk of loss or damage from fire or other casualty until recordation of the deed conveying the Property to Buyer is assumed by Seller.

18. Rules of Construction. Section captions used in this Agreement are for convenience only and shall not affect the construction of the Agreement. All references to "Sections", without reference to a document other than this Agreement are intended to designate articles and sections of this Agreement, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, unless specifically designated otherwise. The use of the term "including" shall mean in all cases "including but not limited to," unless specifically designated otherwise. No rules of construction against the drafter of this Agreement shall apply in any interpretation or

enforcement of this Agreement, any documents or certificates executed pursuant hereto, or any provisions of any of the foregoing.

19. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday in Maryland, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday.

20. Time of the Essence. **Time shall be of the essence under this Agreement.**

21. No Third Party Beneficiaries. None of the rights or obligations provided hereunder shall inure to the benefit of any third party.

22. Waiver of Trial by Jury. THE PARTIES HERETO HEREBY AGREE TO WAIVE ANY RIGHTS THEY MIGHT OTHERWISE HAVE TO A TRIAL BY JURY UNDER ANY PROVISION OF ANY APPLICABLE LAW.

23. Assignment. Buyer may not assign the Agreement, or any part hereof, without the express written consent of Seller, in its sole and absolute discretion. The foregoing notwithstanding, the Buyer may assign this Agreement to a new or affiliated entity, the principals of which are identified and are identical to the principals of the Buyer.

23. Approvals. Any approvals required under the provisions of this Agreement by City shall be as duly authorized by the Mayor and Council as its duly constituted legislative body.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

ATTEST:

SELLER:

CITY OF HAGERSTOWN
A Maryland municipal corporation

Name:

By: _____
Emily N. Keller
Mayor

WITNESS:

BUYER

Augustine M. Boyce

ADDENDUM #1 TO PURCHASE AGREEMENT

NOTICE TO PURCHASER OF PURCHASER'S RIGHTS UNDER MARYLAND'S PROPERTY DISCLOSURE LAW

SECTION 10-702 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND ("SECTION 10-702") REQUIRES THAT SELLERS OF SINGLE FAMILY RESIDENTIAL PROPERTY PROVIDE YOU, THE PURCHASER, ON OR BEFORE ENTERING INTO A CONTRACT OF SALE EITHER:

(A) A written property conditions "Disclosure Statement" listing all defects or information of which the Seller has actual knowledge in relation to the following:

1) Water and Sewer systems, including the source of household water, water treatment systems, and sprinkler systems; 2) Insulation; 3) Structural systems, including the roof, walls, floors, foundation, and any basement; 4) Plumbing, electrical, heating, and air conditions systems; 5) Infestation of wood-destroying insects; 6) Land use matters; 7) Hazardous or regulated materials, including asbestos, lead-based paint, radon, underground storage tanks, and licensed landfills; and 8) Any other material defects known to the seller; or

(B) A written "Disclaimer Statement" providing that: 1) The Seller makes no representations or warranties as to the condition of the real property or any improvements on the real property; and 2) the purchaser will be receiving the real property "as is", with all defects that may exist, except as otherwise provided in the contract of sale.

At the time the Disclosure or Disclaimer Statement is delivered to you, you are required to date and sign a written acknowledgement of receipt, which shall be included in or attached to the contract of sale.

You are hereby notified that, in certain circumstances, you have the right to rescind your contract of sale with the Seller, if the Seller fails to deliver to you the written "Property Condition Disclosure Statement". Section 10-702 provides that a purchaser who does not receive the "Disclosure Statement" on or before entering into the contract of sale has the unconditional right, upon written notice to the Seller or Seller's agent; 1) to rescind the contract of sale at any time before the receipt of the "Disclosure Statement" or within 5 days following receipt of the "Disclosure Statement", and 2) to the immediate return of any deposits made on account of the contract of sale.

If the "Disclosure Statement" is delivered to you later than 3 days after the Seller enters into a contract of sale with you, the contract of sale is void. Your right to rescind the contract of sale under Section 10-702 terminates if not exercised before making written application to lender for a mortgage loan, if the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application.

Your rights as a purchaser under Section 10-702 may not be waived in the contract of sale, and any attempted waiver is void. Your rights as the purchaser to terminate the contract of sale under Section 10-702 are waived conclusively if not exercised before; 10 closing or

occupancy by you, whichever occurs first, in the event of a sale; or 2) occupancy, in the event of a lease with option to purchase.

The information contained in the "Property Condition Disclosure Statement" is the representation of the Seller and not the representation of the real estate broker or salesperson, if any. The Seller is not required to undertake or provide an independent investigation or inspection of the real property in order to make the disclosures required by Section 10-702. The Seller is not liable for any error, inaccuracy, or omission in the "Disclosure Statement" if the error, inaccuracy or omission was based upon information that was not within the actual knowledge of the Seller, or was provided to the Seller by a third party.

You have the right to obtain professional advice about the real property or to obtain an independent inspection of the property by a certified or licensed inspection, and any disclosure or disclaimer is not a substitute for the same.

The undersigned purchaser(s) acknowledges receipt of this notice on the date indicated below and acknowledges that the real estate licensee named below has informed the purchaser of the purchaser's rights and obligations under section 10-702.

The above is to be considered part of the contract and of equal force and effect as all other terms and conditions which otherwise remain the same.

Date: _____

WITNESS:

BUYER

Augustine M. Boyce

DISCLAIMER STATEMENT

The Seller hereby represents that the Seller makes no representations or warranties as to the condition of the real property or any improvements on the real property and the purchaser will be receiving the real property "as is", with all defects that may exist, except as otherwise provided in the contract of sale.

ATTEST:

SELLER:

CITY OF HAGERSTOWN
A Maryland municipal corporation

Name:

By: _____
Emily N. Keller
Mayor

The Buyer hereby acknowledges receipt of the Disclaimer Statement herein on the day of _____, 2023.

WITNESS:

BUYER

Augustine M. Boyce

ADDENDUM #2 TO PURCHASE AGREEMENT

LEAD-BASED PAINT DISCLOSURE

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement:

Every Buyer of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interesting residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspections for possible lead-based paint hazards is recommended prior to occupancy of the rental property.

Seller's Disclosure (initial)

_____ (a.) Presence of lead-based paint and/or lead-based hazards (check one below):

(☒) Known lead-based paint and/or lead based paint hazards are present in the housing (explain).

Structure was constructed prior to 1978 and it is likely that lead based paint was used in building components at that time.

(☐) Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b.) Records and reports available to the Seller (check one below):

(☐) Seller has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead based paint hazards in the housing (list documents below).

(☒) Seller has no reports or records pertaining to lead-based paint and/or lead-based hazards in the housing.

Buyer's acknowledgement (initial)

_____ (c.) Buyer has received copies of all information listed above.

_____ (d.) Buyer has received the pamphlet *Protect Your Family From Lead in Your Home*

N/A__ (e.) Buyer has received a copy of the lead inspection certificate from Seller.

_____ (f.) Buyer has received a copy of the Maryland Lead Poisoning Prevention Program Disclosure/Department of Environment publication from Seller, as required by Annotated Code of Maryland, Environment Section 6-820.

Certification of Accuracy

By signing this Addendum #2, the parties agree that they have reviewed the information above and certify; to the best of their knowledge, that the information provided by the signatory is true and accurate.

ATTEST:

SELLER:

CITY OF HAGERSTOWN
A Maryland municipal corporation

Name:

By: _____
Emily N. Keller
Mayor

WITNESS:

BUYER

Augustine M. Boyce



Protect Your Family From Lead in Your Home



United States
Environmental
Protection Agency



United States
Consumer Product
Safety Commission



United States
Department of Housing
and Urban Development

Are You Planning to Buy or Rent a Home Built Before 1978?

Did you know that many homes built before 1978 have **lead-based paint**? Lead from paint, chips, and dust can pose serious health hazards.

Read this entire brochure to learn:

- How lead gets into the body
- How lead affects health
- What you can do to protect your family
- Where to go for more information

Before renting or buying a pre-1978 home or apartment, federal law requires:

- Sellers must disclose known information on lead-based paint or lead-based paint hazards before selling a house.
- Real estate sales contracts must include a specific warning statement about lead-based paint. Buyers have up to 10 days to check for lead.
- Landlords must disclose known information on lead-based paint or lead-based paint hazards before leases take effect. Leases must include a specific warning statement about lead-based paint.

If undertaking renovations, repairs, or painting (RRP) projects in your pre-1978 home or apartment:

- Read EPA's pamphlet, *The Lead-Safe Certified Guide to Renovate Right*, to learn about the lead-safe work practices that contractors are required to follow when working in your home (see page 12).



Simple Steps to Protect Your Family from Lead Hazards

If you think your home has lead-based paint:

- Don't try to remove lead-based paint yourself.
- Always keep painted surfaces in good condition to minimize deterioration.
- Get your home checked for lead hazards. Find a certified inspector or risk assessor at [epa.gov/lead](https://www.epa.gov/lead).
- Talk to your landlord about fixing surfaces with peeling or chipping paint.
- Regularly clean floors, window sills, and other surfaces.
- Take precautions to avoid exposure to lead dust when remodeling.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe certified renovation firms.
- Before buying, renting, or renovating your home, have it checked for lead-based paint.
- Consult your health care provider about testing your children for lead. Your pediatrician can check for lead with a simple blood test.
- Wash children's hands, bottles, pacifiers, and toys often.
- Make sure children eat healthy, low-fat foods high in iron, calcium, and vitamin C.
- Remove shoes or wipe soil off shoes before entering your house.

Lead Gets into the Body in Many Ways

Adults and children can get lead into their bodies if they:

- Breathe in lead dust (especially during activities such as renovations, repairs, or painting that disturb painted surfaces).
- Swallow lead dust that has settled on food, food preparation surfaces, and other places.
- Eat paint chips or soil that contains lead.

Lead is especially dangerous to children under the age of 6.

- At this age, children's brains and nervous systems are more sensitive to the damaging effects of lead.
- Children's growing bodies absorb more lead.
- Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.



Women of childbearing age should know that lead is dangerous to a developing fetus.

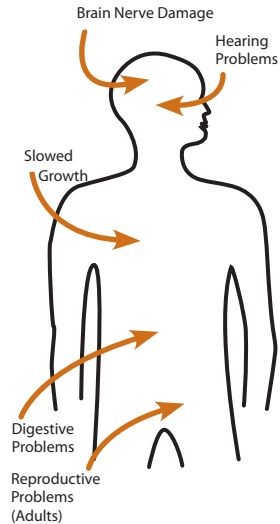
- Women with a high lead level in their system before or during pregnancy risk exposing the fetus to lead through the placenta during fetal development.

Health Effects of Lead

Lead affects the body in many ways. It is important to know that even exposure to low levels of lead can severely harm children.

In children, exposure to lead can cause:

- Nervous system and kidney damage
- Learning disabilities, attention-deficit disorder, and decreased intelligence
- Speech, language, and behavior problems
- Poor muscle coordination
- Decreased muscle and bone growth
- Hearing damage



While low-lead exposure is most common, exposure to high amounts of lead can have devastating effects on children, including seizures, unconsciousness, and in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults, too.

In adults, exposure to lead can cause:

- Harm to a developing fetus
- Increased chance of high blood pressure during pregnancy
- Fertility problems (in men and women)
- High blood pressure
- Digestive problems
- Nerve disorders
- Memory and concentration problems
- Muscle and joint pain

Check Your Family for Lead

Get your children and home tested if you think your home has lead.

Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect lead. Blood lead tests are usually recommended for:

- Children at ages 1 and 2
- Children or other family members who have been exposed to high levels of lead
- Children who should be tested under your state or local health screening plan

Your doctor can explain what the test results mean and if more testing will be needed.

Where Lead-Based Paint Is Found

In general, the older your home or childcare facility, the more likely it has lead-based paint.¹

Many homes, including private, federally-assisted, federally-owned housing, and childcare facilities built before 1978 have lead-based paint. In 1978, the federal government banned consumer uses of lead-containing paint.²

Learn how to determine if paint is lead-based paint on page 7.

Lead can be found:

- In homes and childcare facilities in the city, country, or suburbs,
- In private and public single-family homes and apartments,
- On surfaces inside and outside of the house, and
- In soil around a home. (Soil can pick up lead from exterior paint or other sources, such as past use of leaded gas in cars.)

Learn more about where lead is found at [epa.gov/lead](https://www.epa.gov/lead).

¹ “Lead-based paint” is currently defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter (mg/cm²), or more than 0.5% by weight.

² “Lead-containing paint” is currently defined by the federal government as lead in new dried paint in excess of 90 parts per million (ppm) by weight.

Identifying Lead-Based Paint and Lead-Based Paint Hazards

Deteriorated lead-based paint (peeling, chipping, chalking, cracking, or damaged paint) is a hazard and needs immediate attention. **Lead-based paint** may also be a hazard when found on surfaces that children can chew or that get a lot of wear and tear, such as:

- On windows and window sills
- Doors and door frames
- Stairs, railings, banisters, and porches

Lead-based paint is usually not a hazard if it is in good condition and if it is not on an impact or friction surface like a window.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Lead dust also forms when painted surfaces containing lead bump or rub together. Lead paint chips and dust can get on surfaces and objects that people touch. Settled lead dust can reenter the air when the home is vacuumed or swept, or when people walk through it. EPA currently defines the following levels of lead in dust as hazardous:

- 10 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) and higher for floors, including carpeted floors
- 100 $\mu\text{g}/\text{ft}^2$ and higher for interior window sills

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. EPA currently defines the following levels of lead in soil as hazardous:

- 400 parts per million (ppm) and higher in play areas of bare soil
- 1,200 ppm (average) and higher in bare soil in the remainder of the yard

Remember, lead from paint chips—which you can see—and lead dust—which you may not be able to see—both can be hazards.

The only way to find out if paint, dust, or soil lead hazards exist is to test for them. The next page describes how to do this.

Checking Your Home for Lead

You can get your home tested for lead in several different ways:

- A lead-based paint **inspection** tells you if your home has lead-based paint and where it is located. It won't tell you whether your home currently has lead hazards. A trained and certified testing professional, called a lead-based paint inspector, will conduct a paint inspection using methods, such as:
 - Portable x-ray fluorescence (XRF) machine
 - Lab tests of paint samples
- A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards. A trained and certified testing professional, called a risk assessor, will:
 - Sample paint that is deteriorated on doors, windows, floors, stairs, and walls
 - Sample dust near painted surfaces and sample bare soil in the yard
 - Get lab tests of paint, dust, and soil samples
- A combination inspection and risk assessment tells you if your home has any lead-based paint and if your home has any lead hazards, and where both are located.



Be sure to read the report provided to you after your inspection or risk assessment is completed, and ask questions about anything you do not understand.

Checking Your Home for Lead, continued

In preparing for renovation, repair, or painting work in a pre-1978 home, Lead-Safe Certified renovators (see page 12) may:

- Take paint chip samples to determine if lead-based paint is present in the area planned for renovation and send them to an EPA-recognized lead lab for analysis. In housing receiving federal assistance, the person collecting these samples must be a certified lead-based paint inspector or risk assessor
- Use EPA-recognized tests kits to determine if lead-based paint is absent (but not in housing receiving federal assistance)
- Presume that lead-based paint is present and use lead-safe work practices

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency for more information, visit epa.gov/lead, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.³

³ Hearing- or speech-challenged individuals may access this number through TTY by calling the Federal Relay Service at 1-800-877-8339.

What You Can Do Now to Protect Your Family

If you suspect that your house has lead-based paint hazards, you can take some immediate steps to reduce your family's risk:

- If you rent, notify your landlord of peeling or chipping paint.
- Keep painted surfaces clean and free of dust. Clean floors, window frames, window sills, and other surfaces weekly. Use a mop or sponge with warm water and a general all-purpose cleaner. (Remember: never mix ammonia and bleach products together because they can form a dangerous gas.)
- Carefully clean up paint chips immediately without creating dust.
- Thoroughly rinse sponges and mop heads often during cleaning of dirty or dusty areas, and again afterward.
- Wash your hands and your children's hands often, especially before they eat and before nap time and bed time.
- Keep play areas clean. Wash bottles, pacifiers, toys, and stuffed animals regularly.
- Keep children from chewing window sills or other painted surfaces, or eating soil.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe Certified renovation firms (see page 12).
- Clean or remove shoes before entering your home to avoid tracking in lead from soil.
- Make sure children eat nutritious, low-fat meals high in iron, and calcium, such as spinach and dairy products. Children with good diets absorb less lead.

Reducing Lead Hazards

Disturbing lead-based paint or removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

- In addition to day-to-day cleaning and good nutrition, you can **temporarily** reduce lead-based paint hazards by taking actions, such as repairing damaged painted surfaces and planting grass to cover lead-contaminated soil. These actions are not permanent solutions and will need ongoing attention.
- You can minimize exposure to lead when renovating, repairing, or painting by hiring an EPA- or state-certified renovator who is trained in the use of lead-safe work practices. If you are a do-it-yourselfer, learn how to use lead-safe work practices in your home.
- To remove lead hazards permanently, you should hire a certified lead abatement contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent control.



Always use a certified contractor who is trained to address lead hazards safely.

- Hire a Lead-Safe Certified firm (see page 12) to perform renovation, repair, or painting (RRP) projects that disturb painted surfaces.
- To correct lead hazards permanently, hire a certified lead abatement contractor. This will ensure your contractor knows how to work safely and has the proper equipment to clean up thoroughly.

Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Reducing Lead Hazards, continued

If your home has had lead abatement work done or if the housing is receiving federal assistance, once the work is completed, dust cleanup activities must be conducted until clearance testing indicates that lead dust levels are below the following levels:

- 10 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for floors, including carpeted floors
- 100 $\mu\text{g}/\text{ft}^2$ for interior windows sills
- 400 $\mu\text{g}/\text{ft}^2$ for window troughs

Abatements are designed to permanently eliminate lead-based paint hazards. However, lead dust can be reintroduced into an abated area.

- Use a HEPA vacuum on all furniture and other items returned to the area, to reduce the potential for reintroducing lead dust.
- Regularly clean floors, window sills, troughs, and other hard surfaces with a damp cloth or sponge and a general all-purpose cleaner.

Please see page 9 for more information on steps you can take to protect your home after the abatement. For help in locating certified lead abatement professionals in your area, call your state or local agency (see pages 15 and 16), [epa.gov/lead](https://www.epa.gov/lead), or call 1-800-424-LEAD.

Renovating, Repairing or Painting a Home with Lead-Based Paint

If you hire a contractor to conduct renovation, repair, or painting (RRP) projects in your pre-1978 home or childcare facility (such as pre-school and kindergarten), your contractor must:

- Be a Lead-Safe Certified firm approved by EPA or an EPA-authorized state program
- Use qualified trained individuals (Lead-Safe Certified renovators) who follow specific lead-safe work practices to prevent lead contamination
- Provide a copy of EPA's lead hazard information document, *The Lead-Safe Certified Guide to Renovate Right*



RRP contractors working in pre-1978 homes and childcare facilities must follow lead-safe work practices that:

- **Contain the work area.** The area must be contained so that dust and debris do not escape from the work area. Warning signs must be put up, and plastic or other impermeable material and tape must be used.
- **Avoid renovation methods that generate large amounts of lead-contaminated dust.** Some methods generate so much lead-contaminated dust that their use is prohibited. They are:
 - Open-flame burning or torching
 - Sanding, grinding, planing, needle gunning, or blasting with power tools and equipment not equipped with a shroud and HEPA vacuum attachment
 - Using a heat gun at temperatures greater than 1100°F
- **Clean up thoroughly.** The work area should be cleaned up daily. When all the work is done, the area must be cleaned up using special cleaning methods.
- **Dispose of waste properly.** Collect and seal waste in a heavy duty bag or sheeting. When transported, ensure that waste is contained to prevent release of dust and debris.

To learn more about EPA's requirements for RRP projects, visit epa.gov/getleadsafe, or read *The Lead-Safe Certified Guide to Renovate Right*.

Other Sources of Lead

Lead in Drinking Water

The most common sources of lead in drinking water are lead pipes, faucets, and fixtures.

Lead pipes are more likely to be found in older cities and homes built before 1986.

You can't smell or taste lead in drinking water.

To find out for certain if you have lead in drinking water, have your water tested.

Remember older homes with a private well can also have plumbing materials that contain lead.

Important Steps You Can Take to Reduce Lead in Drinking Water

- Use only cold water for drinking, cooking and making baby formula. Remember, boiling water does not remove lead from water.
- Before drinking, flush your home's pipes by running the tap, taking a shower, doing laundry, or doing a load of dishes.
- Regularly clean your faucet's screen (also known as an aerator).
- If you use a filter certified to remove lead, don't forget to read the directions to learn when to change the cartridge. Using a filter after it has expired can make it less effective at removing lead.

Contact your water company to determine if the pipe that connects your home to the water main (called a service line) is made from lead. Your area's water company can also provide information about the lead levels in your system's drinking water.

For more information about lead in drinking water, please contact EPA's Safe Drinking Water Hotline at 1-800-426-4791. If you have other questions about lead poisoning prevention, call 1-800 424-LEAD.*

Call your local health department or water company to find out about testing your water, or visit [epa.gov/safewater](https://www.epa.gov/safewater) for EPA's lead in drinking water information. Some states or utilities offer programs to pay for water testing for residents. Contact your state or local water company to learn more.

* Hearing- or speech-challenged individuals may access this number through TTY by calling the Federal Relay Service at 1-800-877-8339.

Other Sources of Lead, continued

- **Lead smelters** or other industries that release lead into the air.
- **Your job.** If you work with lead, you could bring it home on your body or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture. Call your local health department for information about hobbies that may use lead.
- Old **toys** and **furniture** may have been painted with lead-containing paint. Older toys and other children's products may have parts that contain lead.⁴
- Food and liquids cooked or stored in **lead crystal** or **lead-glazed pottery or porcelain** may contain lead.
- Folk remedies, such as "**greta**" and "**azarcon**," used to treat an upset stomach.

⁴ In 1978, the federal government banned toys, other children's products, and furniture with lead-containing paint. In 2008, the federal government banned lead in most children's products. The federal government currently bans lead in excess of 100 ppm by weight in most children's products.

For More Information

The National Lead Information Center

Learn how to protect children from lead poisoning and get other information about lead hazards on the Web at epa.gov/lead and hud.gov/lead, or call **1-800-424-LEAD (5323)**.

EPA's Safe Drinking Water Hotline

For information about lead in drinking water, call **1-800-426-4791**, or visit epa.gov/safewater for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline

For information on lead in toys and other consumer products, or to report an unsafe consumer product or a product-related injury, call **1-800-638-2772**, or visit CPSC's website at cpsc.gov or saferproducts.gov.

State and Local Health and Environmental Agencies

Some states, tribes, and cities have their own rules related to lead-based paint. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your state or local contacts on the Web at epa.gov/lead, or contact the National Lead Information Center at **1-800-424-LEAD**.

Hearing- or speech-challenged individuals may access any of the phone numbers in this brochure through TTY by calling the toll-free Federal Relay Service at **1-800-877-8339**.

U. S. Environmental Protection Agency (EPA) Regional Offices

The mission of EPA is to protect human health and the environment. Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact
U.S. EPA Region 1
5 Post Office Square, Suite 100, OES 05-4
Boston, MA 02109-3912
(888) 372-7341

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact
U.S. EPA Region 2
2890 Woodbridge Avenue
Building 205, Mail Stop 225
Edison, NJ 08837-3679
(732) 906-6809

Region 3 (Delaware, Maryland, Pennsylvania, Virginia, DC, West Virginia)

Regional Lead Contact
U.S. EPA Region 3
1650 Arch Street
Philadelphia, PA 19103
(215) 814-2088

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact
U.S. EPA Region 4
AFC Tower, 12th Floor, Air, Pesticides & Toxics
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8998

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact
U.S. EPA Region 5 (LL-17J)
77 West Jackson Boulevard
Chicago, IL 60604-3666
(312) 353-3808

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas, and 66 Tribes)

Regional Lead Contact
U.S. EPA Region 6
1445 Ross Avenue, 12th Floor
Dallas, TX 75202-2733
(214) 665-2704

Region 7 (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact
U.S. EPA Region 7
11201 Renner Blvd.
Lenexa, KS 66219
(800) 223-0425

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6966

Region 9 (Arizona, California, Hawaii, Nevada)

Regional Lead Contact
U.S. EPA Region 9 (CMD-4-2)
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4280

Region 10 (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact
U.S. EPA Region 10 (20-C04)
Air and Toxics Enforcement Section
1200 Sixth Avenue, Suite 155
Seattle, WA 98101
(206) 553-1200

Consumer Product Safety Commission (CPSC)

The CPSC protects the public against unreasonable risk of injury from consumer products through education, safety standards activities, and enforcement. Contact CPSC for further information regarding consumer product safety and regulations.

CPSC

4330 East West Highway
Bethesda, MD 20814-4421
1-800-638-2772
cpsc.gov or saferproducts.gov

U. S. Department of Housing and Urban Development (HUD)

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. Contact to Office of Lead Hazard Control and Healthy Homes for further information regarding the Lead Safe Housing Rule, which protects families in pre-1978 assisted housing, and for the lead hazard control and research grant programs.

HUD

451 Seventh Street, SW, Room 8236
Washington, DC 20410-3000
(202) 402-7698
hud.gov/lead

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IMPORTANT!

Lead From Paint, Dust, and Soil in and Around Your Home Can Be Dangerous if Not Managed Properly

- Children under 6 years old are most at risk for lead poisoning in your home.
- Lead exposure can harm young children and babies even before they are born.
- Homes, schools, and child care facilities built before 1978 are likely to contain lead-based paint.
- Even children who seem healthy may have dangerous levels of lead in their bodies.
- Disturbing surfaces with lead-based paint or removing lead-based paint improperly can increase the danger to your family.
- People can get lead into their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.
- People have many options for reducing lead hazards. Generally, lead-based paint that is in good condition is not a hazard (see page 10).

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of Resolution: Authorizing the Sale of Property Located at 216 S. Prospect Street

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

121322_SS_216_S._Prospect.pdf

Description

Resolution Authorizing Sale
of Property at 216 S.
Prospect Street

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: December 13, 2022

TOPIC: **Approval of a Resolution Authorizing the Sale of Property Located at
216 South Prospect Street, Hagerstown, Maryland**

Charter Amendment	_____
Code Amendment	_____
Ordinance	_____
Resolution	<u> X </u>
Other	_____

MOTION: I hereby move to for the Mayor and City Council approval of a resolution authorizing the sale of property located at 216 S. Prospect, Hagerstown, MD to Alece and Paul Drnec for a purchase price of \$15,000 pursuant to the Ordinance which was effective on September 24, 2020. The sale will be in accordance with all of the terms and conditions outlined in the attached Purchase Agreement.

DATE OF INTRODUCTION:	12/13/2022
DATE OF PASSAGE:	12/13/2022
EFFECTIVE DATE:	12/13/2022

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION TO APPROVE THE
SALE OF 216 SOUTH PROSPECT STREET,
HAGERSTOWN, MARYLAND
TO PAUL AND ALECE DRNEC**

RECITALS

WHEREAS, by Ordinance which was effective on September 24, 2020 (the “Ordinance”) the Mayor and Council approved the acquisition, demolition and sale of a property located at 216 South Prospect Street in the City of Hagerstown, Maryland (hereinafter the “Property”); and

WHEREAS, at the time of the City’s acquisition of the Property, it consisted of improved real property which had recently been destroyed by fire and had become a blighting influence on the South Prospect Street neighborhood; and

WHEREAS, pursuant to the Ordinance, City staff has coordinated and effected the demolition of the Property and offered it for sale through the City’s Competitive Negotiated Sale Program; and

WHEREAS, City staff has recommended the Property be sold for the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) to Paul and Alece Drnec, who have owned and resided at the residence adjoining the Property since on or about 2015; and

WHEREAS the Mayor and Council believe the sale to be in the best interest of the citizens of the City of Hagerstown to do so; and

WHEREAS, in the Ordinance, the Mayor and Council have previously expressly determined that the Property is not needed for a public purpose and should be sold.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim.
2. That the sale of 216 South Prospect Street to Paul and Alece Drnec for the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) be and is hereby approved.
3. That the Mayor be and is hereby authorized to execute and deliver the Purchase Agreement for 216 South Prospect Street, Hagerstown, Maryland, a copy of which is attached hereto and incorporated herein by reference.

4. That City Staff be and are hereby authorized to execute and deliver any additional documentation and take any additional steps necessary to effectuate the purpose of this ordinance and satisfy the terms of the aforesaid contract of sale.

BE IT FURTHER RESOLVED THAT this resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler,
City Clerk

Emily N. Keller, Mayor

Date of Introduction: December 13, 2022
Date of Passage: December 13, 2022
Effective Date: December 13, 2022

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") is made this ____ day of _____, 2022, by and between The City of Hagerstown, a Maryland Municipal Corporation (hereinafter "Seller" or "City") and Paul and Alece Drnec, husband and wife, who are residents of the City of Hagerstown, State of Maryland (hereinafter collectively "Buyer").

WHEREAS, the Seller is the owner of certain land in Hagerstown, Washington County, Maryland which it desires to sell; and

WHEREAS, the Buyer desires to purchase said property.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the Seller, in consideration of the covenants hereinafter entered into by the Buyer, agrees to sell and does sell to the Buyer, and the Buyer agrees to accept and does accept, subject to the terms and conditions hereinafter set forth, all the following described property:

A tract of unimproved land known as 216 South Prospect Street, being all of the property acquired by the Seller by deed dated October 15, 2020 and recorded among the Land Records of Washington County, Maryland, in Liber 6415, folio 0465, together with all and singular the rights and appurtenances pertaining to such land, including any right, title and interest of the Seller in and to adjacent streets, roads, alleys and rights of way and in, to and under any and all leases affecting such land (the "Premises"), at and for a total purchase price of FIFTEEN THOUSAND DOLLARS and 00/100 Dollars (\$15,000.00) and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged.

1. Settlement shall occur within thirty (30) days of the satisfaction of all contingencies but in no event later than January 31, 2023, at the office of Buyer's attorney or settlement agent.
2. Possession shall be given at the time of settlement.
3. All costs of sale shall be borne by the Buyer.
4. All rent, water rent, real estate and any and all public charges which may exist as liens upon the property shall be apportioned as of the date of settlement.
5. The above-described property is to be held at the risk of the Seller until legal title has passed.
6. Except as otherwise provided herein, Seller is making no warranties as to the condition of the property and the property is being sold "AS IS."
7. Seller shall not enter into any Contracts of any kind with respect to the Property or any portion thereof, except as mutually agreed.

8. Seller is the fee simple record and beneficial owner of the Property. No person or entity has an option, right of first refusal or other similar right to acquire all or any portion of the Property. Seller has performed all obligations under and is not in default in complying with the terms and provisions of any covenants, conditions, restrictions, rights-of-way or easements applicable to the Property.

9. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Seller is a party.

10. No proceeding, suit or litigation relating to Seller or the Property or any part thereof is pending or, to Seller's knowledge, threatened in any court or other tribunal or before any Governmental Authority. Seller is not the subject of, nor has Seller received any written notice of or threat that it has or will become the subject of, any actions or proceedings under the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("Bankruptcy Code"), or under any other federal, state or local laws affecting the rights of debtors and/or creditors generally, whether voluntary or involuntary and including, without limitation, proceedings to set aside or avoid any transfer of any interest in property or obligations, whether denominated as a fraudulent conveyance, preferential transfer or otherwise, or to recover the value thereof or to charge, encumber or impose a lien thereon.

11. Upon payment of the whole purchase money, Seller, on demand, agrees to execute and deliver to Buyer a good and sufficient deed of the above-described premises, with covenants of special warranty and further assurances free of all liens and encumbrances, except those, if any, herein mentioned and such easements, conditions and restrictions, if any, to which the premises may now be subject. If the title should be found defective and cannot be perfected, then this Agreement shall be null and void. Prior to settlement, Buyer shall be entitled to receive a title report at Buyer's cost with respect to the property, and, in the event that such title report indicates matters of exception to title objectionable to Buyer, Buyer may terminate this Agreement, provided that Buyer notifies Seller of its intention to so terminate this Agreement within fifteen (15) days of its receipt of such title report. Such title report shall be brought to date at the time of settlement and Buyer may terminate this Agreement if such title report contains any additional exceptions from the previous title report furnished to Buyer.

12. If Buyer defaults in performing any of Buyer's obligations under this Agreement for any reason other than Seller's default or a permitted termination hereof by Buyer, then Seller shall be entitled to avail itself of any other right or remedy granted to it hereunder or at law or in equity.

13. If Seller defaults in performing any of Seller's obligations under this Agreement for any reason other than Buyer's default or a permitted termination hereof, then Buyer may, at its option, (a) terminate this Agreement, (b) compel specific performance of this Agreement by Seller, or (c) avail itself of any other right or remedy granted to it hereunder or at law or in equity.

14. Each party certifies to the other that it has no knowledge of or has assumed any obligation with respect to recognizing or paying any commission to a real estate broker or agent for services rendered in connection with this sale.

15. Buyer shall not assign this Agreement to any party without the prior written consent of the Seller.

16. This Agreement and all documents referred to herein are governed by and construed and interpreted in accordance with the laws of the State of Maryland, without regard to its conflicts of law principles.

17. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single agreement.

18. Regardless of whether Closing occurs hereunder, each party hereto shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including without limitation fees of attorneys, engineers and accountants.

19. All notices, requests, demands and other communications hereunder shall be in writing and shall be given to such party at its address or telecopy number set forth below or such other address or telecopy number as such party may hereafter specify for that purpose by notice to the other party. Each such notice, request, or communication shall, for all purposes, be deemed given and received (a) if given by telecopy, when such telecopy is transmitted to the telecopy number specified below during normal business hours and confirmation or complete receipt is received during normal business hours, provided that on the day on which the telecopy is sent, the sender also sends a copy by a recognized overnight delivery service, (b) if hand delivered against receipted copy, when the copy thereof is receipted, (c) if given by a recognized overnight delivery service, the day after being sent prepaid by such recognized overnight delivery service, or (d) if given by registered or certified mail, return receipt requested postage prepaid, three (3) days after it is posted with the United States Postal Service at the address specified below:

For the Seller: City of Hagerstown
Scott Nicewarner
City Administrator
1 East Franklin Street
Hagerstown, MD 21740

With a copy to:

Jason Morton
SALVATORE & MORTON, LLC
82 West Washington Street, Suite 100
Hagerstown, Maryland 21740
(fax) 401/797-6065

For the Buyer: Paul and Alece Drnec
208 South Prospect Street
Hagerstown, Maryland 21740

Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

20. Seller agrees that it will, at any time and from time to time after the Closing Date, upon reasonable request of Buyer, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required for the better assigning, transferring, granting, assuring and confirming to Buyer, or to its successors and assigns of, or for aiding and assisting in collecting and reducing to possession, any or all of the property being transferred to Buyer pursuant to this Agreement; provided, however, that any instruments to be executed by Seller shall be in form and substance reasonably acceptable to Seller and in no event shall Seller be required to incur any liability or obligation in addition to that which it is obligated to incur under this Agreement. The provisions of this Section shall survive the closing of the transactions contemplated by this Agreement.

21. This Agreement contains the final and entire agreement between the parties hereto and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

WITNESS the names and seals of the parties hereto, signed the date first above written:

ATTEST:

SELLER
City of Hagerstown

Donna K. Spickler, City Clerk

BY: _____(SEAL)
Emily N. Keller

WITNESS:

BUYER

_____(SEAL)
Paul Drnec

WITNESS:

BUYER

_____(SEAL)
Alece Drnec

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY that on this day of , 2022, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Paul Drnec and Alece Drnec, husband and wife, whose names are subscribed to the foregoing Purchase Agreement, and who acknowledged that they executed the same for the purposes therein contained as the act of themselves, with full authority to do so.

WITNESS my hand and Official Notarial Seal.

Notary Public

My Commission Expires:

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY that on this day of , 2022, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Emily N. Keller, known to me to be the Mayor of The City of Hagerstown, whose name is subscribed to the foregoing Purchase Agreement, and who acknowledged that she executed the same for the purposes therein contained as the act of The City of Hagerstown, with full authority to do so.

WITNESS my hand and Official Notarial Seal.

Notary Public

My Commission Expires:

Prior Authorized Ordinance – Effective September 24, 2020

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO APPROVE THE
PURCHASE, DEMOLITION AND SALE
OF A PROPERTY KNOWN AS
216 SOUTH PROSPECT STREET, HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, Duane Browning, an individual resident of the State of Maryland, owns a property located at 216 South Prospect Street in Hagerstown, Maryland (hereinafter the "Property"); and

WHEREAS, the Property was recently damaged by fire, is no longer habitable for rental dwellings, has been vacant for a period of time and has become a blighting influence on the South Prospect Street neighborhood; and

WHEREAS, the Mayor and Council believe that the acquisition, demolition and sale of the Property through the is consistent with the goals and priorities of the Mayor and Council;

WHEREAS, Mr. Browning has agreed to donate the Property to the City in "as-is" condition, pursuant to the terms and conditions set forth in the attached Agreement of Donation;

WHEREAS, after demolition, the City has determined that the Property will no longer be required for a public purpose and should be sold; and

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to do so;

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim.
2. That the donation of 216 South Prospect Street be and is hereby approved.
3. That the Mayor be and is hereby authorized to execute and deliver the Agreement of Donation for 216 South Prospect Street, a copy of which is attached hereto and incorporated herein by reference.
4. That City Staff be and are hereby authorized to execute and deliver any additional documentation and take any additional steps necessary to effectuate the purpose of this ordinance and satisfy the terms of the aforesaid agreement of donation.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT that the Mayor and Council hereby expressly determine that upon the completion of the acquisition and demolition of 216 South Prospect Street, said property will no longer be needed for a public use and hereby authorize sale of said property to a private owner.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND



Donna K. Spickler,
City Clerk



Robert E. Bruchey, Mayor

Date of Introduction: July 28, 2020
Date of Passage: August 25, 2020
Effective Date: September 24, 2020

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

AGREEMENT OF DONATION

THIS AGREEMENT OF DONATION ("Agreement") is made this 1 day of October, 2020, by and between Duane Browning, an individual resident of the State of Maryland (hereinafter "Donor"), and The City of Hagerstown, a Maryland Municipal Corporation (hereinafter "Donee" or "City").

WHEREAS, the Donor is the owner of certain land in Hagerstown, Washington County, Maryland which he desires to donate to the City; and

WHEREAS, the Donee wishes to accept land for demolition and resale;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the Donor, in consideration of the covenants hereinafter entered into by the Donee, agrees to donate and does donate to the Donee, and the Donee agrees to accept and does accept, subject to the terms and conditions hereinafter set forth, all the following described property:

A tract of land known as 216 South Prospect Street, being all of the property acquired by the Donor by deed dated June 11, 2019 and recorded among the Land Records of Washington County, Maryland, in Liber 6001, folio 105, together with all buildings and other improvements situated thereon and all fixtures located on, attached to, or used in connection with the buildings and other improvements situated thereon and together with all and singular the rights and appurtenances pertaining to such land, including any right, title and interest of the Donor in and to adjacent streets, roads, alleys and rights of way and in, to and under any and all leases affecting such land (the "Premises"), at and for a total purchase price of Zero and 00/100 Dollars (\$0.00) but for other good and valuable consideration, including Donor's willingness to demolish said Premises at its own expense.

1. Settlement shall occur within thirty (30) days of the satisfaction of all contingencies but in no event later than October 16, 2020, at the office of Donee's attorney.
2. Possession shall be given at the time of settlement, except that Donee may enter upon the premises at any time and for any purpose reasonably necessary for the acquisition, inspection and demolition of the property by the Donee. Donee may make such changes and alterations to the Premises as it deems desirable prior to settlement.
3. All costs of transfer shall be borne by the Donee.
4. All rent, water rent, real estate and any and all public charges which may exist as liens upon the property shall be paid by the Donee (or forgiven by the Donee) as of the date of settlement.
5. The above described Premises are to be held at the risk of the Donor until legal title has passed.

0-20-24

6. Except as otherwise provided herein Donor is making no warranties as to the condition of the property and the Premises are being sold "AS IS."

7. Donor affirms that he is the fee simple record and beneficial owner of the Property. No person or entity has an option, right of first refusal or other similar right to acquire all or any portion of the Property. Donor has performed all obligations under and is not in default in complying with the terms and provisions of any covenants, conditions, restrictions, rights-of-way or easements applicable to the Premises. Donor shall not enter into any Contracts of any kind with respect to the Premises or any portion thereof, except as mutually agreed.

8. Donor affirms that no proceeding, suit or litigation relating to Donor or the Premises or any part thereof is pending or, to Donor's knowledge, threatened in any court or other tribunal or before any Governmental Authority. Donor is not the subject of, nor has Donor received any written notice of or threat that it has or will become the subject of, any actions or proceedings under the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("Bankruptcy Code"), or under any other federal, state or local laws affecting the rights of debtors and/or creditors generally, whether voluntary or involuntary and including, without limitation, proceedings to set aside or avoid any transfer of any interest in property or obligations, whether denominated as a fraudulent conveyance, preferential transfer or otherwise, or to recover the value thereof or to charge, encumber or impose a lien thereon.

9. At settlement, Donor, agrees to execute and deliver to Donee a good and sufficient deed of the above described premises, with covenants of special warranty and further assurances free of all liens and encumbrances, except those, if any, herein mentioned and such easements, conditions and restrictions, if any, to which the premises may now be subject. If the title should be found defective and cannot be perfected, then this Agreement shall be null and void. Prior to settlement, Donee shall be entitled to receive a title report at Donee's cost with respect to the property, and, in the event that such title report indicates matters of exception to title objectionable to Donee, Donee may terminate this Agreement, provided that Donee notifies Donor of its intention to so terminate this Agreement within Fifteen (15) days of its receipt of such title report. Such title report shall be brought to date at the time of settlement and Donee may terminate this Agreement if such title report contains any additional exceptions from the previous title report furnished to Donee.

10. If Donee defaults in performing any of Donee's obligations under this Agreement for any reason other than Donor's default or a permitted termination hereof by Donee, then Donor shall be entitled to avail itself of any other right or remedy granted to it hereunder or at law or in equity. If Donor defaults in performing any of Donor's obligations under this Agreement for any reason other than Donee's default or a permitted termination hereof, then Donee may, at its option, (a) terminate this Agreement, (b) compel specific performance of this Agreement by Donor, or (c) avail itself of any other right or remedy granted to it hereunder or at law or in equity.

11. Each party certifies to the other that it has no knowledge of or has assumed any obligation with respect to recognizing or paying any commission to a real estate broker or agent for services rendered in connection with this sale.

12. It is the express understanding of the parties that time is of the essence of this Agreement, that the terms and provisions hereof shall survive the delivery of the deed of conveyance, and that this Agreement shall be binding upon the parties, their heirs, successors and assigns. However, Donee shall not assign this Agreement to any party without the prior written consent of the Donor.

13. This Agreement and all documents referred to herein are governed by and construed and interpreted in accordance with the laws of the State of Maryland.

14. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single agreement.

15. Regardless of whether settlement occurs hereunder, each party hereto shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including without limitation fees of attorneys, engineers and accountants.

16. All notices, requests, demands and other communications hereunder shall be in writing and shall be given to such party at its address or telecopy number set forth below or such other address or telecopy number as such party may hereafter specify for that purpose by notice to the other party. Each such notice, request, or communication shall, for all purposes, be deemed given and received (a) if given by telecopy, when such telecopy is transmitted to the telecopy number specified below during normal business hours and confirmation or complete receipt is received during normal business hours, provided that on the day on which the telecopy is sent, the sender also sends a copy by a recognized overnight delivery service, (b) if hand delivered against receipted copy, when the copy thereof is receipted, (c) if given by a recognized overnight delivery service, the day after being sent prepaid by such recognized overnight delivery service, or (d) if given by registered or certified mail, return receipt requested postage prepaid, three (3) days after it is posted with the United States Postal Service at the address specified below:

For the Donor: Duane Browning
304 Upper College Terrace 6415 Green Valley Rd.
Frederick, Maryland 21701 New Market, MD 21774

For the Donee: City of Hagerstown
Attn: Paul Fulk
1 East Franklin Street
Hagerstown, MD 21740

With a copy to:

Jason Morton

SALVATORE & MORTON, LLC
82 West Washington Street, Suite 100
Hagerstown, Maryland 21740

Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

17. Further Assurances. Donor agrees that it will, at any time and from time to time after the settlement, upon reasonable request of Donee, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required for the better assigning, transferring, granting, assuring and confirming to Donee, or to its successors and assigns of, or for aiding and assisting in collecting and reducing to possession, any or all of the assets or property being transferred to Donee pursuant to this Agreement; provided, however, that any instruments to be executed by Donor shall be in form and substance reasonably acceptable to Donor and in no event shall Donor be required to incur any liability or obligation in addition to that which it is obligated to incur under this Agreement. The provisions of this Section shall survive the closing of the transactions contemplated by this Agreement.

18. This Agreement contains the final and entire agreement between the parties hereto and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

WITNESS the names and seals of the parties hereto, signed the date first above written:

ATTEST:

DONOR

Donna K. Spickler

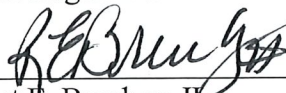
 (SEAL)
Duane Browning

ATTEST:

DONEE

City of Hagerstown

Donna K. Spickler
Donna K. Spickler, City Clerk

BY:  (SEAL)
Robert E. Bruchey, II

STATE OF MARYLAND, COUNTY OF Washington, to-wit:

I HEREBY CERTIFY that on this 1st day of October, 2020, before me, the subscriber, a Notary Public in and for the State and County aforesaid, Duane Browning, personally appeared before me, whose name is subscribed to the foregoing Agreement of Donation, and who acknowledged that he executed the same for the purposes therein contained as his true act and deed, with full authority to do so.

WITNESS my hand and Official Notarial Seal.

Donna Kay Spuckler
Notary Public

My Commission Expires: December 8, 2022

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY that on this 24th day of September, 2020, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Robert E. Bruchey, II, known to me to be the Mayor of The City of Hagerstown, whose name is subscribed to the foregoing Agreement of Donation, and who acknowledged that he executed the same for the purposes therein contained as the act of The City of Hagerstown, with full authority to do so.

WITNESS my hand and Official Notarial Seal.

Jason Miller
Notary Public

My Commission Expires: 3/16/2022

THIS DEED, Made this 15th day of October, 2020, by and between Duane Browning, an adult resident of the State of Maryland (hereinafter, the "Grantor"), and the City of Hagerstown, Maryland, a municipal corporation existing under and by virtue of the laws of the State of Maryland, as grantee (hereinafter, the "City").

WHEREAS, Grantor is the owner of all that real property situate in Washington County, Maryland, as more particularly described hereinbelow (hereinafter, the "Property"); and

WHEREAS, an Ordinance was enacted by the Hagerstown City Council and signed by the Mayor of Hagerstown having an effective date of September 24, 2020, wherein the acquisition of the Property by donation from Grantor to the City was approved, pursuant to the terms and conditions of a Agreement of Donation by and between the City and Grantor dated October 1, 2020; and

WITNESSETH: That for no monetary consideration, but for other good and valuable non-monetary consideration which the Grantor hereby acknowledges, **DUANE BROWNING** does hereby grant and convey unto **THE CITY OF HAGERSTOWN, MARYLAND**, a Maryland municipal corporation, sole owner, in fee simple, all that lot of ground, situate, lying, and being in the County of Washington, State of Maryland, and more particularly described as follows:

All that lot or parcel of land, together with the improvements thereon, and all the rights, alleys, ways, waters, privileges and appurtenances thereunto belonging or in any way appertaining, situate in Hagerstown, Washington County, Maryland on the East side of South Prospect Street between Baltimore Street and Virginia Avenue, and beginning for the same at a point in the East marginal line of said South Prospect Street at the Southwest corner of the property now owned by or formerly owned by Louise D. Tennant and running thence along the East marginal line of South Prospect Street Southwardly a distance of 73 feet, more or less, the the North boundary line of the property now owned or formerly owned by F. Perry Prather and wife, thence Eastwardly along the North marginal line of said Prather lot South 65 degrees 39 minutes East 247 feet, more or less, to the West marginal line of a public alley running South from said Baltimore Street between South Prospect Street and Summit Avenue, thence Northwardly along the West marginal line of said alley North 29 degrees 11 minutes East 59 feet, more or less, to the South lot line of the property now owned or formerly owned by Louise D. Tennant and hereinabove referred to, thence Westwardly with the South lot line of said Tennant property by a straight line 247 feet, more or less, to the East marginal line of said South Prospect Street and the point and place of beginning.

BEING the same property conveyed unto Duane Browning by Matthew B. Ruble, Sole Acting Substitute Trustee, by trustee's deed dated June 11, 2019 and recorded in Book 6001, page 105 among the Land Records of Washington County, Maryland.

The improvements thereon being known as 216 S. Prospect Street, Hagerstown, MD 21740 and having the tax account ID #03-007995.

The property is conveyed together with and subject to all applicable covenants, conditions, restrictions, limitations, rights of way, streets, alleys, reservations and easements of record.

And the said Grantor does hereby covenant that he will warrant specially the property hereby conveyed, except as to the aforesaid covenants, conditions, restrictions, limitations, rights of way, streets, reservations, alleys, and easements of record, and does hereby further covenant that he will execute such other and further assurances of the land as may be requisite.

KURTYKA & ASSOCIATES, L.L.C.
ATTORNEY AT LAW

201 PROSPECT AVENUE
SUITE 122
HAGERSTOWN, MD 21742
(301) 714-0889

THIS DEED, Made this 15th day of October, 2020, by and between Duane Browning, an adult resident of the State of Maryland (hereinafter, the "Grantor"), and the City of Hagerstown, Maryland, a municipal corporation existing under and by virtue of the laws of the State of Maryland, as grantee (hereinafter, the "City").

WHEREAS, Grantor is the owner of all that real property situate in Washington County, Maryland, as more particularly described hereinbelow (hereinafter, the "Property"); and

WHEREAS, an Ordinance was enacted by the Hagerstown City Council and signed by the Mayor of Hagerstown having an effective date of September 24, 2020, wherein the acquisition of the Property by donation from Grantor to the City was approved, pursuant to the terms and conditions of a Agreement of Donation by and between the City and Grantor dated October 1, 2020; and

WITNESSETH: That for no monetary consideration, but for other good and valuable non-monetary consideration which the Grantor hereby acknowledges, **DUANE BROWNING** does hereby grant and convey unto **THE CITY OF HAGERSTOWN, MARYLAND**, a Maryland municipal corporation, sole owner, in fee simple, all that lot of ground, situate, lying, and being in the County of Washington, State of Maryland, and more particularly described as follows:

All that lot or parcel of land, together with the improvements thereon, and all the rights, alleys, ways, waters, privileges and appurtenances thereunto belonging or in any way appertaining, situate in Hagerstown, Washington County, Maryland on the East side of South Prospect Street between Baltimore Street and Virginia Avenue, and beginning for the same at a point in the East marginal line of said South Prospect Street at the Southwest corner of the property now owned by or formerly owned by Louise D. Tennant and running thence along the East marginal line of South Prospect Street Southwardly a distance of 73 feet, more or less, the the North boundary line of the property now owned or formerly owned by F. Perry Prather and wife, thence Eastwardly along the North marginal line of said Prather lot South 65 degrees 39 minutes East 247 feet, more or less, to the West marginal line of a public alley running South from said Baltimore Street between South Prospect Street and Summit Avenue, thence Northwardly along the West marginal line of said alley North 29 degrees 11 minutes East 59 feet, more or less, to the South lot line of the property now owned or formerly owned by Louise D. Tennant and hereinabove referred to, thence Westwardly with the South lot line of said Tennant property by a straight line 247 feet, more or less, to the East marginal line of said South Prospect Street and the point and place of beginning.

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KURIYKA & ASSOCIATES, L.L.C.
ATTORNEY AT LAW

201 PROSPECT AVENUE
SUITE 122
HAGERSTOWN, MD 21742
(301) 714-0889

WITNESS the hand and seal of the Grantor herein the day and year first above written.

BMK
Witness

DET (SEAL)
Duane Browning

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, That on this 15th day of OCTOBER, 20 20, before me, the undersigned officer, personally appeared Duane Browning, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained, and that the consideration recited therein is true and correct.

WITNESS my hand and official Notarial Seal.

My Commission expires: 9-26-2022

Brian M. Kurtyka
Notary Public



I hereby certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

BMK
Brian M. Kurtyka

Mail To:

~~Salvatore & Morton, LLC~~
~~82 W. Washington Street, Suite 100~~
~~Hagerstown, MD 21740~~

CITY HALL
ATTN: DONNA SPICKLER, CITY CLERK
1 E. FRANKLIN STREET
HAGERSTOWN, MD 21740

TODD L. HERSHEY, TREASURER
TAXES PAID 11/5/20
AUTHORIZED BY: TH

KURTYKA & ASSOCIATES, LLC
ATTORNEY AT LAW
201 PROSPECT AVENUE
SUITE 122
HAGERSTOWN, MD 21742
(301) 714-0889

0-20-24

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2020

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor DUANE BROWNING

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

216 S. PROSPECT STREET, HAGERSTOWN, MD 21740

3. Reasons for Exemption

Resident Status



As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.



Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

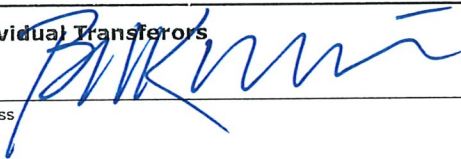


Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness



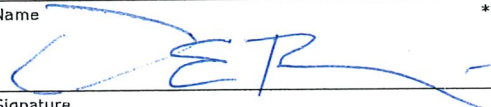
DUANE BROWNING

10/15/2020

Name

**Date

Signature



3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Doleman Black Heritage Museum Presentation - *Alesia Parson McBean*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

M_CC_Update_and_Check_Presentation_12_13_2022.pdf

Description

DBHM Presentation



CITY OF HAGERSTOWN, MARYLAND

Planning & Code Administration Department

One East Franklin Street • Hagerstown, MD 21740

E-mail: planning@hagerstownmd.org

Telephone: 301-739-8577, ext. 138 • Website: www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Kathleen A. Maher, Director of PCAD 

DATE: December 7, 2022

SUBJECT: Doleman Black Heritage Museum Presentation

Representatives of the Doleman Black Heritage Museum (DBHM) will be present at the December 13 work session to present a check to the City for repayment of the 2018-2019 loans to acquire 465 Pennsylvania Avenue.

In addition, DBHM reps will provide the Mayor and City Council with a brief update on their progress moving forward with plans to establish a new museum for their collection and programs at 465 Pennsylvania Avenue.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Preliminary Agenda Review

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

December_20__2022_Preliminary_Agenda.pdf

Description

Preliminary Agenda -
December 20, 2022



**MAYOR AND CITY COUNCIL
REGULAR SESSION (58TH VOTING SESSION)
DECEMBER 20, 2022
AGENDA**

Vision Statement:

The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe and vibrant neighborhoods.”

Mission Statement:

“The City of Hagerstown shall be a community focused municipality.”

PRELIMINARY AGENDA

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

7:00 p.m. REGULAR SESSION – Council Chamber, 2nd floor, City Hall

I. CALL TO ORDER - Mayor Emily Keller

II. INVOCATION

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

- A. Rules of Procedure – *Effective December 15, 2020*
- B. Use of cell phones during meetings is restricted.
- C. All correspondence for distribution to Elected Officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.
- D. Meeting Schedule:
 - 1. Tuesday, January 3, 2023 – No Meeting Scheduled
 - 2. Tuesday, January 10, 2023 – Work Session at 4:00 p.m.
 - 3. Tuesday, January 17, 2023 – Work Session at 4:00 p.m.
 - 4. Tuesday, January 24, 2023 – Work Session at 4:00 p.m.
 - 5. Tuesday, January 31, 2023 – Regular Session at 7:00 p.m.

V. APPOINTMENTS

City Ethics Commission

VI. CITIZEN COMMENTS

Citizens are welcome to provide comments in person or by sending an email to councilcomments@hagerstownmd.org no later than 5:00 p.m. on Tuesday, December 20, 2022. Include your full name, home street address, and topic of your comments. You may attach a letter to the email, or write your comments in the body of the message. The City Clerk will read your name, address, and provide a summary of the comments. The full copy of the comments will be provided for public viewing as part of the minutes.

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

**City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617**

VII. MINUTES

November 1, 2022, November 8, 2022, November 15, 2022, and November 22, 2022

VIII. CONSENT AGENDA

A. Engineering:

1. Wheaton Park Improvements Phase I – Superior Facilities Management Services, LLC (SFMS) (Bethesda, MD) \$ 384,342.06
2. MKS Business Park Stormwater Retrofit Project – Superior Facilities Management Services, LLC (SFMS) (Bethesda, MD) \$ 250,000.00
3. Downtown Redevelopment - 32 North Potomac Street – Boulevard Contractors Corp. (Owings Mills, MD) \$ 2,450,000.00

B. Fire Department:

1. Turnout Gear Replacement – Witmer Public Safety Group (Williamsport, MD) \$ 31,080.00

C. Information Technology:

1. Barracuda Essentials Compliance Edition – Year 3 of 3 – System Source (Hunt Valley, MD) \$ 20,494.00

D. Planning and Code Administration:

1. 2023 Ford Ranger – Keystone Ford (Chambersburg, PA) \$ 32,890.00

E. Police Department:

1. ForenScope Smart Tablet – Evident (Union Hall, VA) \$ 35,580.00

F. Public Works:

1. Emergency Repair for Unit 16 - Trash Truck – Mar-Eco, Inc. (aka Keystone Ford) (Chambersburg, PA) \$ 15,162.60
2. Street Closure – Antietam Velo Club Bike Race and 5k

G. Utilities:

1. Light: Emergency Purchase – Vehicle Repairs – ALTEC (Frederick, MD) \$ 37,323.24
2. Light: Norfolk Southern Railway Crossing – RailPros Field Services (Omaha, NE) \$ 33,820.00
3. Light: Substation power Transformers – Anixter-Wesco (New Castle, DE) \$ 1,021,566.00
4. Water: ABB SCADA Software Contract, Three Year Agreement from 1/1/23 – 12/31/25 – ABB, Inc. (Warminster, PA) \$ 232,949.00
5. Wastewater: Chemical Purchase – Thioguard – Premier Magnesia, LLC (Wayne, PA) \$ 346,500.00
6. Water and Wastewater: Line Locating Services – Triple A Locating Services, LLC (Severn, MD) \$ 221,500.00
7. Wastewater: WWTP SCADA System Upgrade: Micro-Tech Designs, Inc. (Hampstead, MD) \$ 543,017.00

IX. UNFINISHED BUSINESS

- ✓ A. Approval of an Ordinance: Purchase of 50-58 West Antietam Street
- ✓ B. Approval of an Ordinance: Amending the City Code – Add Chapter 230, Transient Housing
- ✓ C. Approval of an Ordinance: Amending the City Code – Amending Chapter 65, Habitual Offender, to Enhance Support to Transient Visitors and Neighborhoods

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

Unfinished business continued

- ✓ D. Approval of an Ordinance: Amending the City Code – Amending Chapter 95, Excessive Use of City Services, to Impose Fees for Police, Law Enforcement Services, and Code Administration Services Which are Over and Above the Costs of Providing Normal Police Protection Law Enforcement, and Code Administration Services at Transient Housing Facilities

X. NEW BUSINESS

- ✓ A. Introduction of an Ordinance: Conveyance of Land at 49/53 W. Washington Street
- ✓ B. Introduction of an Ordinance: Hebb Road Property Transfer
- ✓ C. Approval of a Resolution: Lease Amendment with The Foundry Pop-Ups
- D. Approval of a Resolution: Approval of a User Agreement with the Colt and Palomino League for Use of the Hellane Park Baseball Field
- E. Approval of a Resolution: Approval of a User Agreement with the West End Little League for Use of the Hellane Park Baseball Field
- F. Approval of a Resolution: Approval of a User Agreement with the American Little League for Use of the Hager Park Baseball Field
- G. Approval of a Resolution: Approval of a User Agreement with the Hagerstown Pony League for Use of the Funkhouser Park Baseball Field
- H. Approval of a Resolution: Approval of a User Agreement with the Hagerstown BMX, Inc. for Use of a Portion of Fairgrounds Park
- I. Approval of a Resolution: Approval of Field Repair Agreement with the Hagerstown Fairgrounds Softball Association, Inc.
- J. Approval of Agreement for Tree Planting at Former Landfill
- ✓ K. Approval of Program Open Space (POS) Application
- L. Approval of Increase to Purchase Order for Pool Operations
- ✓ M. Approval of Automated Speed Enforcement Contract
- N. Approval of a License Agreement: Trolley Photos on Cultural Trail

XII. CITY ADMINISTRATOR COMMENTS

XIII. MAYOR & COUNCIL COMMENTS

XIV. ADJOURN

✓ Items that have been discussed and reviewed previously or are of a routine nature and, therefore, additional information may not be attached to this agenda.

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

**City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617**

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

2022 Annual Package of Proposed Land Management Code Amendments - *Stephen Bockmiller, Development Review Planner and Zoning Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Mayor_and_Council_memo.pdf

PC_Packet_2022_LMC_Amendments_10_18_2022.pdf

Description

M&CC Presentation Memo -
2022 LMC Amendments

Memo to Planning
Commission on Proposed
LMC Amendments



CITY OF HAGERSTOWN, MARYLAND

Planning & Code Administration Department

One East Franklin Street • Hagerstown, MD 21740

E-mail: planning@hagerstownmd.org

Telephone: 301-739-8577, ext. 138 • Website: www.hagerstownmd.org

MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Stephen R. Bockmiller, AICP
Development Review Planner and Zoning Administrator

DATE: December 6, 2022

SUBJECT: 2022 Annual Package of Proposed Land Management Code Text Amendments

Staff will be present at the December 13 work session to brief the Mayor and City Council on a pending recommendation from the Planning Commission regarding the annual package of Land Management Code updates for 2022. We are making this presentation ahead of the actual recommendation due to the compressed holiday schedules and the timing needed to advertise for a January 31 Mayor and City Council public hearing.

Pending Planning Commission Recommendation

The Planning Commission's public review meeting (PRM) for the 2022 text amendment package held on November 9. One member of the public participated in the November 9th PRM and no additional material was submitted during the 10-day open record period following the PRM. The next step in the process is for the Planning Commission to make a recommendation to the Mayor and City Council, which is scheduled for the December 14 workshop meeting.

Overview

The Land Management Code (LMC) is an assembly of four previously independently structured ordinances that were combined between 2008 and 2010 into a single, better organized and cross-referenced code. Those ordinances are the Zoning Ordinance (now Article 4, LMC), Subdivision and Land Development Ordinance (now Article 5, LMC), Floodplain Management (now Article 6, LMC) and Forest Conservation (now Article 7, LMC). Proposals or ideas for amendments and adjustments are collected throughout the year, and are processed annually in a single package to conserve staff time and City resources.

Attached herewith you will find the Land Management Code amendments recommended this year by the Planning Commission for the Mayor and Council's consideration. It consists of thirteen amendments or groupings of amendments. Six loosen the existing regulations or make them more accommodating. Four create new or tighten existing regulations. Three are corrections and clarifications.

A brief summary of the contents of each proposal and a directory of which pages to find each in the packet is contained in the cover memo dated October 18 on the attached packet of proposals.

How to Read the Proposals

At the top of each proposal is a table with an assigned proposal number, a brief summary of the proposal and a summary of the justification for the proposed amendment. Using the standard format that we have used for the last several years, the following key is used to illustrate how the existing text will be amended:

Standard black text: Existing text that will remain unchanged.

Standard red text: New text that will be added to the Code.

~~Standard black text shown in strikeout: Existing text that will be removed from the Code.~~

Standard blue text: Notations and explanations to help the reader with citations and content.

Text in blue is not verbatim language in or proposed for the Code.

Next Steps

The Planning Commission's recommendation to proceed with the proposed 2022 package of LMC amendments is anticipated to occur at their December 14 meeting. The next step would be advertisement for the Mayor and City Council's public hearing on January 31.

Attachments

Copy: Jill Thompson, Director, DCED
Kathleen A. Maher, AICP, Director, PCAD

MEMORANDUM

TO: Interested Persons and Parties

FROM:  Stephen R. Bockmiller, AICP, Development Review Planner/Zoning Administrator

SUBJECT: 2022 Land Management Code Amendments Package – OFFICIAL PROPOSAL PACKAGE (REVISED)

DATE: October 18, 2022

Attached you will find this year's official package of thirteen suggestions for amending the Land Management Code. The proposed schedule is as follows:

November 9 – Public Review Meeting of the official Planning Commission proposal. The hearing will be held at 7 p.m. in the City Council Chambers on the second floor of City Hall. Please arrive no later than 7:05, as the door will be manned until that time, but the doors will be locked and the security desk will be unattended after that time, and late arrivals may not be able to access the building. Doors will open at 6:45. Note that this is a revised date. The hearing was originally scheduled for October 26 but was postponed to November 9 due to deficiencies in legal advertisements.

December 14 – After having held the record open for 10 days for additional comment, the Commission will likely formulate its recommendation on this matter and forward it to the Mayor and Council for consideration. The Mayor and Council would hold its own hearing later – likely in January. The Commission may schedule a special meeting after the 10-day period expires on November 19 to formulate its recommendation prior to its regular meeting of December 14.

There are twelve proposals as follows:

Page:	Proposal:	Loosening regulations:
1.	2022-01	Permitting solar farms in the POM District on EPA/MDE remediation sites.
2.	2022-02	Adding thirteen new permitted uses to the INST district and one new use each to the CG and CR Districts.
3.	2022-03	Minor adjustments to three standards for wall-mounted signs.
4.	2022-04	Permit gambling establishments per Maryland law in the CC-MU and CR Districts.
5.	2022-05	Amend the public notice requirements for text and map amendments to be consistent with Maryland law.
6.	2022-06	Adjustments to the flex building performance standards of the POM District.
Corrections and clarifications:		
7.	2022-07	Clarifying that the definition of livestock includes beekeeping.
8.	2022-08	Clarifying the accessory structure setback requirement from a principal structure.
9.	2022-09	Minor correction to the Conversion Overlay District section to correct an internal conflict of language.
Tightening regulations:		
10.	2022-10	Relocate and adjust industrial performance standards to apply to all industrial uses, not just districts.
13.	2022-11	Regulation of camper, recreational vehicle and boat parking in residential zoning districts.
16.	2022-12	Performance standards for raw land in the N-MU District to encourage mixing of housing types.
18.	2022-13	Regulation of new driveway entrances to public streets from improved residential properties.

If you have any questions, please contact me at your convenience.

Copy: K. Maher, Director, PCAD
J. Bender, Assistant City Engineer

J. Thompson, Director, DCED
D. Reaser, Bus. Dev. Specialist, DCED

P. Fulk, Neighborhood Svcs. Manager
M. Revilla, Admin. Coord., PCAD

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-01	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Permit solar farms on properties subject to deed restrictions by the EPA or MDE due to environmental contamination		
Justification: Provides for an unmanned use for a property that would otherwise be non-income producing and fall into fallow state due to environmental constraints. As written, this proposal would affect only the Central Chemical site and the Pangborn Corporation site (which is in the development process).		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section K.12.d (page 4-87)

d. Ground-Mounted Solar Collection Systems.

- (1) Ground-Mounted Solar Collection Systems are permitted as an accessory use in any zoning district.
 - (a) ~~(1)~~ In residential and mixed-use zoning districts and for residential uses in any other zoning district, Ground-Mounted Solar Collection Systems shall not occupy more than nine hundred (900) square feet of the lot, shall not be taller than ten (10) feet in height, and shall meet all setback requirements for accessory structures.
 - (b) ~~(2)~~ In commercial and industrial districts, Ground-Mounted Solar Collections Systems shall meet the height and setback requirements for accessory structures in that district.
- (2) Ground-Mounted Solar Collection Systems are permitted as a principal permitted use in certain districts as described in Section Z (Land Use Chart) only as a means of providing productive use of land otherwise seriously curtailed by deed restriction imposed by the Environmental Protection Agency or the Maryland Department of the Environment due to remediated environmental contamination on site which would cause risk to the health of persons living or working on the property for concentrated periods of time. Ground-Mounted Solar Collection Systems as a principal use are not an effective and optimal use of land valuable for the purpose of commerce, employment and productivity within a municipality and are otherwise prohibited.

Article 4, Section Z (page 4-162)

Use	POM	IR	IG
Ground-Mounted Solar Collection Systems on properties subject to a remediation plan approved by the U.S. Environmental Protection Agency and/or Maryland Department of the Environment.	P	P	P

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-02	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Add new permitted uses to the INST district and a few new permitted uses to others.		
Justification: Planning Director looked at the INST district uses after the district was created and found a few logical places where the list of uses permitted in the district can be logically expanded. In this review, a few other changes were considered for consistency purposes.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section Z.2 - Use Chart for Mixed Use and Non-Residential Districts (begins page 4-148)

Use	INST	CG	CR
Child day-care services (624410)	P		
Country clubs, golf courses and summer camps.	P		
Municipal parking lots and decks.	P		
Visitor Welcome Center.	P	P	P
Broadcasting (515).	P		
Broadcasting (515) except transmission points.	P		
Telecommunications (517).	P		
Internet service providers web search portals and data processing services (518).	P		
Produce stands (812910).	P		
Parking Lots & Garages (81293), private, commercial and municipal, including offsite parking lots maintained by and designated for a permitted or special exception use on a lot located within 500 feet.	P		
Transit and Ground Transportation (485) provided area for parking vehicle fleets be enclosed with an opaque fence at least six feet in height (eight feet for buses and large trucks), maintained in good repair, with landscaping outside of the fence in accordance with the requirements of Article 5, and not including bus stations or terminals	P		
Adult day care with vocational centers.	P		
Vocational Rehabilitation Services (624310).	P		

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-03	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Adjust the wall area signage limitation upwards.		
Justification: Practical application of the existing regulations suggest that the allotted signage area may be too small in the commercial and industrial districts.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section 1.5.b. (Wall mounted sign chart, page 4-56)

b. Flush, Wall-Mounted Signs and Roof-Mounted Signs.

Zoning District	Maximum Cumulative Area 50 feet or less of building or strip store frontage (square feet)	Maximum Cumulative Area More than 50 feet of building or strip store frontage (square feet)	Maximum Cumulative Area – more than 500 feet of wall fronting or parallel to street (square feet)
RMOD, RMED, RH*	1 per each linear foot of building frontage	1 per linear foot of building frontage	1 per linear foot of building frontage
RO*, CL, C, LC	1 per each linear foot of building frontage	1.5 per linear foot of building frontage	1.5 per linear foot of building frontage
CC-MU, N-MU	1 per linear foot of building frontage or area of existing historic sign panel space	1.5 per linear foot of building frontage or area of existing historic sign panel space	1.5 per linear foot of building frontage or area of existing historic sign panel space
CG, CR, POM, INST, AT	2 1.5 per linear foot of building frontage	2 per linear foot of building frontage	2 per linear foot of building frontage
IR, IG, I-MU	2 1.5 per linear foot of building frontage	3 2 per linear foot of building frontage	3 per linear foot of building frontage

* For permitted non-residential uses (excluding home work stations)

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-04	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Add betting facilities as recently approved by the State.		
Justification: These uses are now permitted in Maryland under license by the state. There is one operator currently interested in creating a facility within a 5,200+ square foot restaurant adjacent to the hotel(s) at the Valley Mall, which are in the City's jurisdiction. State Bill 940 (2021) for Sports Wagering is designated to support statewide education. The business will create additional economic development, jobs and promote tourism.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section Z.2 - Use Chart for Mixed Use and Non-Residential Districts (begins page 4-148)

Use	CC-MU	CR
Gambling establishments as defined, permitted, regulated and licensed by the State of Maryland, including sports betting parlors and similar facilities. This use may be independent of any other business or located within another business that is permitted in the district.	P	P

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-05	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Remove all references to advertising and notice requirements in a map or text amendment to read only that which is required by State law.		
Justification: A rezoning application had to be rescheduled for public hearing when a minor notice issue in our ordinance (but not required by the state) was not complied with. Change will not change current practice, but will insulate a case from legal challenge should non-state expectations be missed in the review process.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section A.9 (page 4-5)

- d. **Effective Date and Notice.** No such amendment, supplement, change, modification or repeal shall become effective until at least ten days after one review and one public hearing are held. One review shall be held by the Planning Commission within 45 days of receipt of application and recommendation of findings forwarded to the Mayor and City Council. One public hearing shall be held by the Mayor and City Council who shall determine if the amendment, supplement, change, modification or repeal shall be granted at which time the parties in interest and citizens shall have an opportunity to be heard. **Notice of the public review meeting and/or public hearings shall be provided in accordance with Maryland law. The Planning Commission and/or the Mayor and Council may adopt by policy expectations for additional notice, however failure by the City to apply the expectations of those policies shall not constitute legal defect of the process, provided the minimum requirements of Maryland Law are met.** Notice for the public hearing shall be given as follows:
- (1) ~~Legal Notice. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction or boundary, shall be published in at least one newspaper of general circulation in the city once each week for two successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.~~
 - (2) ~~Written Notice. Send written notices of hearing to other interested persons, organizations or agencies at the Council's discretion.~~
 - (3) ~~Additional Notice. Except for a Historic District or Landmark, when the proposed hearing concerns a Zoning Map change altering the classification of fewer than 25 lots of record, the following additional notice is required:~~
 - (a) ~~Posting in a conspicuous place on the property involved a notice of pending action containing the same information as in Subsection d(1) above, such posting to take place at least 15 days prior to the date fixed for the public hearing.~~
 - (b) ~~Giving written notice of the time and place of such hearing sent by certified mail to the applicant and to the owners of property contiguous to or opposite the property affected.~~

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-06	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Change warehouse/flex on the POM District from a special exception use to a permitted use with performance standards.		
Justification: Requested by the Department of Economic and Community Development to help market and develop POM zoned land. Protections are necessary to protect office and other standard POM uses from this.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section Z.2 - Use Chart for Mixed Use and Non-Residential Districts (begins page 4-163)

Use	POM
Warehouse/Flex space, provided warehouse space does not exceed more than 50% of the total gross floor area of the building.	SE P

Article 4, Section F.2.b - new subsection 11 (page 4-38)

(11) Performance Standards for Warehouse/Flex in the POM District:

- (a) Buildings shall be occupied by professional, scientific or technical service enterprises and/or light manufacturing enterprises (a special exception shall be required for light manufacturing);
- (b) Total floor area of a single building shall not exceed 50,000 square feet, however a property may contain more than one such building if designed within a business park setting;
- (c) Warehouse space may occupy up to 90 percent of an occupant's floor area within a building if the property is accessed directly from a major collector or arterial roadway or accesses such roadways through commercially or industrially zoned land; and
- (d) If the property does not have direct access to a major collector or arterial roadway or does not access such roadways through commercially or industrially zoned land, warehouse space shall not exceed 50 percent of the occupant's floor area.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-07	Is this a new issue or one previously discussed?	New
Version: 1	Is this new text proposed since last discussion in need of initial review?	Yes
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No.
Summary: Clarify definition of “livestock” to specifically include bees.		
Justification: The definition of “livestock” implies bees are included in the definition, because they are kept for their by-products (honey). The issue has been raised to the Planning Commission and to the Mayor and Council regarding whether bee keeping should be permitted in the city. Both bodies strongly came down on the side of not permitting bee keeping. The City is pursuing an enforcement case regarding a property owner keeping bees at this time. Based on the staff efforts to move forward with enforcement of this matter, the City Attorney suggested that the definition of “livestock” be amended to specifically include bees. With that in place, there is no argument with property owners on this matter. The existing definition is legally sufficient to move forward with this enforcement case, but counsel has advised staff that it would be cleaner and less subject for dispute if bees were specifically stated in the definition.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 3, Section C (page 3-23)

LIVESTOCK – Animals typically grown for the purpose of production of animal byproducts (e.g., eggs, milk, meat, wool, leather, **honey**, etc.) for household consumption or sale or grown for purposes of labor for the owner (e.g., transportation, plowing, etc.). For the purposes of this provision, livestock does not include animals typically owned as pets (e.g. cats, dogs, goldfish, etc.) or for service to people with disabilities (e.g., “seeing eye” dogs). All hoofed animals, **bees** and fowl (chickens, turkeys, etc.) shall be considered livestock. The keeping of more than five adult rabbits and/or similar animals for any purpose (including household pets) outside of a dwelling shall be considered livestock. The keeping of livestock is only permitted in the AT district as part of a permissible land use. (See Article 4, Subsection K.11).
(Zoning)

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-08	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Clarify setback requirement from main structure for an accessory structure.		
Justification: Accessory structures are required to meet accessory structure setback requirements from side and rear property lines, and a 3-foot separation from the principal structure. Recently, a house was approved with this proviso, but was built measuring the 3 feet from wall of the accessory structure to the wall of the principal structure. The eaves of the two structures are within inches of one another, all but making the distance pointless and the building gives the impression of being part of the principal structure. This proposal clarifies that all parts of the accessory building must be at least 3 feet from all parts of the principal building.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in red. Staff direction is in blue.

Article 4, Section D.5.a (chart notes at the top of page 4-18)

Accessory buildings located within three feet of a principal structure shall be considered part of the principal structure for setback purposes. Accessory buildings on the same lot located within three feet of another accessory buildings shall be considered cumulatively as if they were attached for bulk regulations purposes. **For accessory setback requirements to apply, all parts of the accessory structure shall be at least 3 feet from the principal structure, including any deck, porch, stoop, eave, carport on either or both structures. Three feet of clear unattached space shall be maintained between the structures at all points.**

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-09	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Remove reference to a two-story requirement in the Conversion District.		
Justification: Corrects inconsistency with the purpose statement which does not require multi-story buildings.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section J.2.e (page 4-69)

e. General Requirements.

- (1) The area proposed for a conversion district shall be in one ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of property included in the development plan.
- (2) The development shall be for an existing, nonresidential structure ~~containing at least two floors~~ in which all proposed uses, except parking, uses approved for additions and outdoor dining areas will be contained. However, the following uses, if approved, may include an outdoor dining area provided the area is identified on the concept plan approved by the Mayor and City Council and the area is screened from adjacent residential uses to the satisfaction of the Planning Commission as determined with the review and approval of a site plan: **List omitted for brevity as it will remain unchanged.**

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-10	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	Yes – corrected numbering.
Summary: Move industrial performance standards from the Industrial Districts section to the Supplementary section so that they apply to all new industrial uses in the city regardless of location.		
Justification: There are circumstances where an industrial use could be added to the city but not in the industrial districts (through overlays, changes of nonconformities, being permitted in the CC-MU Zoning District, etc.). This move will make the standards apply to all new industrial uses.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

[Article 4, Section H.7 \(page 4-47\)](#)

7. Industrial Performance Standards.

See Subsection K.21.

The following industrial performance standards shall be met in the industrial districts for any industrial use prior to the issuance of a zoning permit:

- a. ~~**Control of Smoke, Dust and Dirt, Fumes, Vapors, Gases and Odors.**~~ The Maryland air pollution control standards shall be used to control the emission of smoke, dust, dirt, fly ash, fumes, vapors, gases or odors.
- b. ~~**Control of Heat and Glare.**~~ No use shall carry on an operation that will produce heat or constant glare which will adversely affect the uses of an adjacent property.
- e. ~~**Vibration Control.**~~ Machines or operations which cause vibration shall be permitted, but in no case shall any such vibration adversely affect the uses of an adjacent property.
- d. ~~**Radiation of Electrical Emissions, Radioactivity or Electrical Disturbance.**~~ Activities which may emit dangerous radioactivity beyond closed areas shall comply with state and federal codes. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely at any point any equipment other than that of the creator of such disturbance.
- e. ~~**Electric, Diesel, Gas or Other Power.**~~ Every use requiring power shall be so operated that any service line, substation, etc., shall conform to the highest applicable safety requirements. They shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the building or, if visible from abutting residential properties, shall be concealed by evergreen planting.
- f. ~~**Wastewater and Waste Treatment.**~~ All methods of wastewater and industrial waste treatment and disposal shall be approved by the Department of Utilities and shall be in accordance with all applicable regulations.

~~g. **Storage of Materials.**~~

- ~~(1) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation or which will destroy aquatic life be allowed to enter any stream or watercourse.~~
- ~~(2) All materials or wastes which may cause fumes or dust or which may be edible or otherwise attractive to rodents or insects shall be stored only if enclosed in containers which are adequate to eliminate such hazards.~~

Article 4, New Section K.21 (page 4-90) (copied from previous without content change except in the first line removing reference to only industrial districts).

21. Industrial Performance Standards.

The following industrial performance standards shall be met for any industrial use prior to the issuance of a zoning permit:

- a. Control of Smoke, Dust and Dirt, Fumes, Vapors, Gases and Odors.** The Maryland air pollution control standards shall be used to control the emission of smoke, dust, dirt, fly ash, fumes, vapors, gases or odors.
- b. Control of Heat and Glare.** No use shall carry on an operation that will produce heat or constant glare which will adversely affect the uses of an adjacent property.
- c. Vibration Control.** Machines or operations which cause vibration shall be permitted, but in no case shall any such vibration adversely affect the uses of an adjacent property.
- d. Radiation of Electrical Emissions, Radioactivity or Electrical Disturbance.** Activities which may emit dangerous radioactivity beyond closed areas shall comply with state and federal codes. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely at any point any equipment other than that of the creator of such disturbance.
- e. Electric, Diesel, Gas or Other Power.** Every use requiring power shall be so operated that any service line, substation, etc., shall conform to the highest applicable safety requirements. They shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the building or, if visible from abutting residential properties, shall be concealed by evergreen planting.
- f. Wastewater and Waste Treatment.** All methods of wastewater and industrial waste treatment and disposal shall be approved by the Department of Utilities and shall be in accordance with all applicable regulations.

g. Storage of Materials.

- (1) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation or which will destroy aquatic life be allowed to enter any stream or watercourse.
- (2) All materials or wastes which may cause fumes or dust or which may be edible or otherwise attractive to rodents or insects shall be stored only if enclosed in containers which are adequate to eliminate such hazards.

Staff will review the ordinance to ensure any cross-referencing is detected and changed to address this relocation.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-11	Is this a new issue or one previously discussed?	Previous
Version: 2	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	Yes.
Summary: Regulate the parking and storage of camping trailers and boats on residential properties. Currently, the ordinance is silent on this issue. Proposal limits the number and length of such items and limits them to storage in a rear yard on a stable surface and not for occupancy. Regulations proposed have been watered down from much more restrictive limitations found in the zoning ordinance of Las Vegas, Nevada.		
Justification: Staff periodically receives complaints about boats and campers on nearby properties. Without some form of regulation, they can be quite impactful on the quality of life on surrounding properties. Multiple units stored on one property, overall size and proximity to property lines and adjacent homes, etc. can have negative impacts on adjacent properties.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Background: Staff received a call from a property owner in the northwest part of the city. His home has a one-car garage and a one-car parking pad in front of it. He inquired about expanding his parking pad to a two-car pad, for the purpose of parking a 33-foot camper in the driveway in the front yard of the property. Given the modest size of the lots in this area, the camper would extend nearly to the sidewalk, and would be within a few feet of the side wall of the adjacent home. The adjacent owner would have the near constant presence of a large box shaped item in the neighbor's front yard, only a few feet from their home, and blocking their view down the street from their home. This has the potential to affect the reasonable use and enjoyment of the homes of adjacent property owners, and should the neighbor desire to sell their home at some point, this condition would be a deal killer to many potential buyers. Adding the paving would not provide needed additional off-street parking for a second vehicle regularly used, but would be used for long term storage. This proposal is justified in one of the intended purposes of the Land Management Code, Article 1, Section B.

Article 4, Section D.3, new subsection d. (Residential Districts section, page 4-15)

d. Storage of Motor Homes, Camping Trailers, Boats and Personal Watercraft.

See Subsection K.20.

Article 4, Section E.3, new subsection d. (Mixed-Use Districts section, page 4-29)

d. Storage of Motor Homes, Camping Trailers, Boats and Personal Watercraft.

See Subsection K.20.

Article 4, Section F.3, (Commercial Districts section, page 4-39)

3. Parking Requirements.

As applicable under Section O of this Article. **See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.**

Article 4, Section H.3, (Industrial Districts section, page 4-46)

3. Parking Requirements.

As applicable under Section O of this Article. **See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.**

Article 4, Section J.1.g, (PUD Overlay Districts section, page 4-64)

g. Off-Street Parking.

See Section O of this Article for parking requirements for all uses in the PUD Districts. **See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.**

Article 4, Section J.2.h, (Conversion Overlay Districts section, page 4-70)

h. Off-Street Parking.

Off-street parking shall be as required under Section O, except that during review of the site plan, the Planning Commission may permit variation from the number of spaces required, provided such variation relates to the shared use of the parking spaces and is consistent with the approved conversion district concept plan and the special design requirements of this district. **See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.**

Article 4, Section J.3.h, (Local Conversion Overlay Districts section, page 4-74)

h. Lot Area Requirements and Off-Street Parking.

- (1) The maximum lot area for a Local Conversion District shall be 20,000 square feet.
- (2) Minimum parking requirements and lot size requirements shall not apply to this overlay district, however existing on-site parking shall not be reduced unless the remaining parking meets current Ordinance requirements. The Board of Zoning Appeals shall not grant a variance to this requirement. However, upon illustration in a rezoning exhibit, the Mayor and Council, as part of the petition for rezoning, may approve a site design that reduces the amount of existing parking if it finds that to do so is an acceptable step to ensure the adequate landscaping and screening of the use from adjacent properties.
- (3) **See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.**

Article 4, Section K, new subsection 20 (page 4-90)

20. Parking and Storage of Motor Homes, Camping Trailers, Boats, Personal Watercraft and Similar Vehicles on Residentially Zoned Properties and Other Properties Used for Residential Purposes.

Parking typically provided on residential properties is in volumes sufficient for the transient use of personal vehicles owned and maintained for use in the normal course of a resident's daily activities. The storage of recreational vehicles on many lots can influence the parking of personal

vehicles, forcing vehicles to be parked in the street, which is not in the public interest when off-street parking is available. Therefore, unless stored or parked within a completely enclosed building, the parking and storage of motor homes, camping trailers, boats and similar vehicles in all zoning districts in the City shall comply with the following:

- a. The number of such vehicles shall not exceed one per lot or property.
- b. The vehicle shall not exceed 25 feet in length.
- c. The vehicle shall not exceed 10 feet in height.
- d. The vehicle shall be the personal property of a resident of a dwelling on the property.
- e. The vehicle shall not be stored in the front yard or side yard of a dwelling.
- f. The vehicle shall be stored on a stable surface consisting of gravel, asphalt, concrete, pavers or similar surface at least two inches in thickness and at least as wide and as long as the vehicle.
- g. The vehicle shall comply with the same setback requirements as is required for an accessory structure from the side and rear property lines and the right of way from any side-street when the property is a corner lot. When the rear yard fronts an alley to the rear or side, the vehicle shall be at least 5 feet from the alley right of way if that distance is greater than the setback requirement.
- h. The vehicle is not used on-site for camping or dwelling purposes.
- i. The vehicle is in full compliance with applicable provisions of the Fire Code and other technical codes.

The Board of Zoning Appeals shall not grant a variance to any provision of this subsection.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-12	Is this a new issue or one previously discussed?	New
Version: 1	Is this new text proposed since last discussion in need of initial review?	Yes
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Direct raw land development of N-MU land to be more urban in design and character, with mixtures of housing types.		
Justification: There is one N-MU zoned “greenfield” in the city, being the Harrison tract on the east side of Dual Highway behind the IBM building. Developers have shown interest in this site recently, but in those cases, they are apartment complex developers. While apartment developments are permitted in the N-MU District, it was not envisioned as being a location for contemporary suburban-style apartment developments, and such development is inconsistent with the purpose statement of that section of the Zoning Ordinance. Also, developing housing of all one type as multifamily can be done on a single tract or a few large tracts, inconsistent with the Ordinance’s intent that most new development should be on individual lots.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section E.5 (Mixed Use District Setbacks - page 4-29)

5. Minimum and Maximum Lot Width and Yard (Setback) Requirements.

a. Minimum Bulk Requirements Chart.

The minimum lot width and yard (setback) requirements for mixed-use districts shall be as stated in the following chart:

Mixed Use District Minimum Yard Requirements for All Buildings

Zoning District (See subsections b and c for specific performance standards)	Front Yard Depth (feet)	Rear Yard Depth (feet)	Minimum Aggregate Width of Side Yards (feet)	Minimum Width of Side Yards (feet)	Number of Side Yards Required
N-MU	0	5	0	0	0
CC-MU	0	0	0	0	0

Yards shall be measured and determined in accordance with the standards set forth in Subsection K.6 of this Article.

b. Maximum Setback Requirements for Development of Undeveloped Lands in the N-MU Zoning District.

There is only one minimum setback requirement in the N-MU District and there will be few if any nearby existing buildings on undeveloped N-MU zoned lands. Therefore, when developing any tract, tracts or part of a tract that was undeveloped as of January 1, 2023, building massing, setbacks, general building and parking locations and other improvements shall be proposed to the Planning Commission in the form of a sketch plan. The Commission shall determine whether the proposed subdivision or site design meets the intended purpose of the N-MU Zoning District as described in Section E.1.b, above before the development moves forward to the Development Plan or Site Plan stage. New development shall be designed to focus on streetscapes, pedestrian circulation, shielding parking fields from streets

and promote generally urban designs consistent with Section E.1.b. The Commission shall approve no sketch plan for a proposal that is predominantly suburban in design. Should the Commission reject a sketch plan, the applicant shall be provided the reasons for that rejection in writing to provide guidance to them in formulating a revised plan.

c. Maximum Setback Requirements in the CC-MU Zoning District and Areas of the N-MU District developed prior to (insert date).

Rest of section omitted as unchanged.

Article 4, Section E.6.c (page 4-31)

j. Densities.

Residential densities in the mixed-use districts will vary based on the planning process, but it is anticipated that the average density in the City Center Mixed Use District will be between ten and 22 units per acre and the average density in the Neighborhood Mixed-Use District will be between six and ten units per acre. Individual sites within the mixed-use districts may have much higher densities; however, the average for all properties in a single district is anticipated to be as stated above.

When developing any tract, tracts or part of a tract in the N-MU District that was or were undeveloped as of January 1, 2023, no sketch plan shall be approved by the Planning Commission for any development that shall be entirely of a single housing type. Any sketch plan for such development shall not permit more than 35 percent of the total dwelling units that could be developed on the tract or tracts to be multi-family dwelling units, and townhouse and multi-family dwellings together shall not exceed a total of 50 percent of the total number of dwelling units on the tract or tracts. This ratio shall be applied to those parts of the tract designated for exclusively residential development. Parts of the development dedicated to mixed use structures including dwellings and commercial/institutional uses shall not be included in the calculation for the purpose of determining the number of multi-family units and townhouses may be permitted.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2022-13	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No. Justification expanded below.
Summary: Strengthen driveway requirements in the parking section to reduce the proliferation of front yard parking.		
Justification: Existing language is weak, with “weasel wording” to make it very difficult to enforce. Urban streetscape environments are not characterized by regular interruption by driveways and front yard parking, and it should be strongly discouraged where there are alternatives. Several neighborhoods are characterized by their front yard areas and absence (or limited amount) of driveways, front yard parking and interruption of available on-street parking. New parking which results in no net increase in parking spaces available on and off the lot results only in compromising the streetscape, reducing available on-street parking to the community and creating more impervious surface. Handicapped parking can be addressed through handicapped reserve passes when necessary.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Article 4, Section O.1.d (page 4-101)

k. Off-Street Yard Parking for **Existing Residential Development.**

While this Code requires new development to address off-street parking to be part of the design of a new subdivision, many long-developed residential properties have no on-lot parking in urban communities or at least no front-street driveway access. On-street parking is part of the culture of urban communities. Many communities are characterized by their streetscape with few if any front yard driveways, and a large percentage of Hagerstown residential lots are developed with rear alley access.

Per Sub-Section O.1.a above, there is no requirement in this ordinance for existing dwellings without driveways to provide off-street parking, nor is there a requirement for providing off-street parking when building on an unimproved lot within an existing developed community. However, some property owners will desire to add off-street parking on an existing developed lot or during construction on an infill lot.

Adding driveway access to front streets for existing properties leads to the deterioration of character-defining community streetscapes, creates additional new potential vehicular and pedestrian points of conflict, creates more opportunities for vehicles to be parked blocking sidewalks, creates additional impervious surface and frequently results in no net increase in available parking once on-street spaces are lost in order to create the driveway apron. It is not in the public interest to permit adding new front street driveway access to existing developed residential lots when alternatives, such as rear-alley access are available. Even if there are no alternatives on a given lot, ultimately, no property owner has entitlement to a new driveway entrance to a front street in an urban jurisdiction, and it is good public policy to discourage this practice to the greatest extent practicable.

On all existing improved residential lots and lots in new residential development, the following off-street parking design requirements shall apply:

- (1) Parking Areas shall be solid paved (non-gravel) surfaces or permeable pavers;
- (2) Rear yard parking garages or parking pads are the expected off-street parking system. When rear yard area is accessible to provide off-street parking, the parking shall be installed in the rear yard with access via alleys;
- (3) When approved by the City Engineer and the Zoning Administrator, driveways accessing the lot from a front or side street shall be one vehicle in width;
- (4) When approved by the City Engineer and the Zoning Administrator, Driveways directly serving front-loaded garages from front and/or side streets shall be permitted to be as wide as the garage;
- (5) ~~For lots without garages and without the ability to provide rear yard parking, front yard parking pads or turn-arounds of single vehicle width driveways shall be permissible provided the parking area does not exceed 50% of the front yard area.~~ Installation of a driveway on property in a locally designated historic district shall only be approved after obtaining a Certificate of Appropriateness from the Historic District Commission upon findings that the proposed driveway is consistent with the applicable design standards for such improvements, as adopted by the Commission.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

2022 Comprehensive Rezoning - *Kathleen Maher, Director of Planning and Code Administration*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MCC_packet_2020_Comprehensive_Rezoning_12.13.22.pdf

Description

2022 Comprehensive
Rezoning



CITY OF HAGERSTOWN, MARYLAND

Planning & Code Administration Department

One East Franklin Street • Hagerstown, MD 21740

E-mail: planning@hagerstownmd.org

Telephone: 301-739-8577, ext. 138 • Website: www.hagerstownmd.org

MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Kathleen A. Maher, Director of PCAD

DATE: December 8, 2022

SUBJECT: 2022 Comprehensive Rezoning

Staff will be present at the December 13 work session to brief the Mayor and City Council on a pending recommendation from the Planning Commission for a 2022 Comprehensive Rezoning. We are making this presentation ahead of the actual recommendation due to the compressed holiday schedules and the timing needed to advertise for a January 31 Mayor and City Council public hearing.

Pending Planning Commission Recommendation

The Planning Commission's public review meeting (PRM) for the 2022 Comprehensive Rezoning was held on November 9. This comprehensive rezoning is intended to clean-up eight areas that should have been rezoned to INST in the 2020 comprehensive rezoning and to add two other areas that have arisen as planned INST uses. No one from the public participated in the November 9 PRM and nothing was submitted in the 10 days following the PRM. The next step in the process is for the Planning Commission to make a recommendation to the Mayor and City Council, which is scheduled for the December 14 workshop meeting.

Overview

The City's updated Comprehensive Plan, *visionHagerstown 2035*, was adopted on April 3, 2018. In order to implement the Comprehensive Plan's Future Land Use Map recommendations, the City undertook a comprehensive rezoning in 2019-2020 which became effective on July 23, 2020. One of the significant changes of that comprehensive rezoning were rezonings of 35 properties to implement the new Institutional (INST) zone on schools, parks, government properties, and other institutional uses.

Since the initial comprehensive rezoning, staff have discovered eight properties that were inadvertently left out of the Institutional zone rezonings and two other museum properties that make sense to be rezoned INST. The chart at the end of this memo includes detail on each property. Those properties include:

1. Jonathan Hager Elementary School
2. Potomac Heights Elementary School
3. Kiwanis Park (along Antietam Creek within the Light Business Park)
4. Oswald Park (along Prospect Avenue)
5. Rotary Club of Longmeadow Park (on Northern Avenue)
6. Terrapin Park (in Collegiate Acres)
7. Wheaton Park (in Jonathan Street neighborhood)
8. Woodland Way Park (in North End)
9. Future home of Doleman Black Heritage Museum (465 Pennsylvania Avenue)
10. Future home of expansion of Washington County Museum of Fine Arts (321 Highland Avenue/111 Key Street)

A second comprehensive rezoning is underway to clean-up these oversights and facilitate future development of the two properties owned by the museums. Both museum properties are adjacent to City parks.

Attached are exhibits showing the before and after zoning of the affected properties, as well as a draft update to the zoning map showing the areas proposed for rezoning.

Information on the proposed rezoning was sent to affected property owners on September 27, posted on the City web site by September 30, and advertised twice in the Herald Mail in October and November.

Next Steps

The Planning Commission's recommendation to proceed with the proposed 2022 Comprehensive Rezoning is anticipated to occur at their December 14 meeting. The next step would be advertisement for the Mayor and City Council's public hearing on January 31.

Attachments

C: Jill Thompson, Director of DCED
Eric Deike, Public Works Director
Mark Haddock, Parks & Recreation Manager

Properties Proposed to be Rezoned

Location	Current Zoning	Recommended Future Land Use Designation	Proposed Zoning Designation	Comments
Jonathan Elementary School	RMED with PUD	Institutional	INST with PUD	Change would be consistent with other WCPS zoning
Potomac Heights Elementary School	RMOD	Institutional	INST	Change would be consistent with other WCPS zoning
Kiwanis Park	POM	Parks Recreation Open Space	INST	Change would be consistent with other public park zoning
Oswald Park	RMOD with Oak Hill HD	Parks Recreation Open Space	INST with Oak Hill HD	Change would be consistent with other public park zoning
Rotary Club of Longmeadow Park	RMOD	Parks Recreation Open Space	INST	Change would be consistent with other public park zoning
Terrapin Park	RMED	Parks Recreation Open Space	INST	Change would be consistent with other public park zoning
Wheaton Park	RH	Parks Recreation Open Space	INST	Change would be consistent with other public park zoning
Woodland Way Park	RMOD	Parks Recreation Open Space	INST	Change would be consistent with other public park zoning
465 Pennsylvania Avenue – <i>future home of Doleman Black Heritage Museum</i>	RH	High Density Residential	INST	Property occupied by vacant industrial building and owned by DBHM. Planning underway for relocation of museum to this site. Change would be consistent with WCMFA zoning.
321 Highland Avenue/111 Key Street – <i>future home of WCMFA expansion</i>	RMOD	Parks Recreation Open Space	INST	Property occupied by vacant industrial buildings and owned by WCMFA. Change would be consistent with rest of WCMFA zoning.

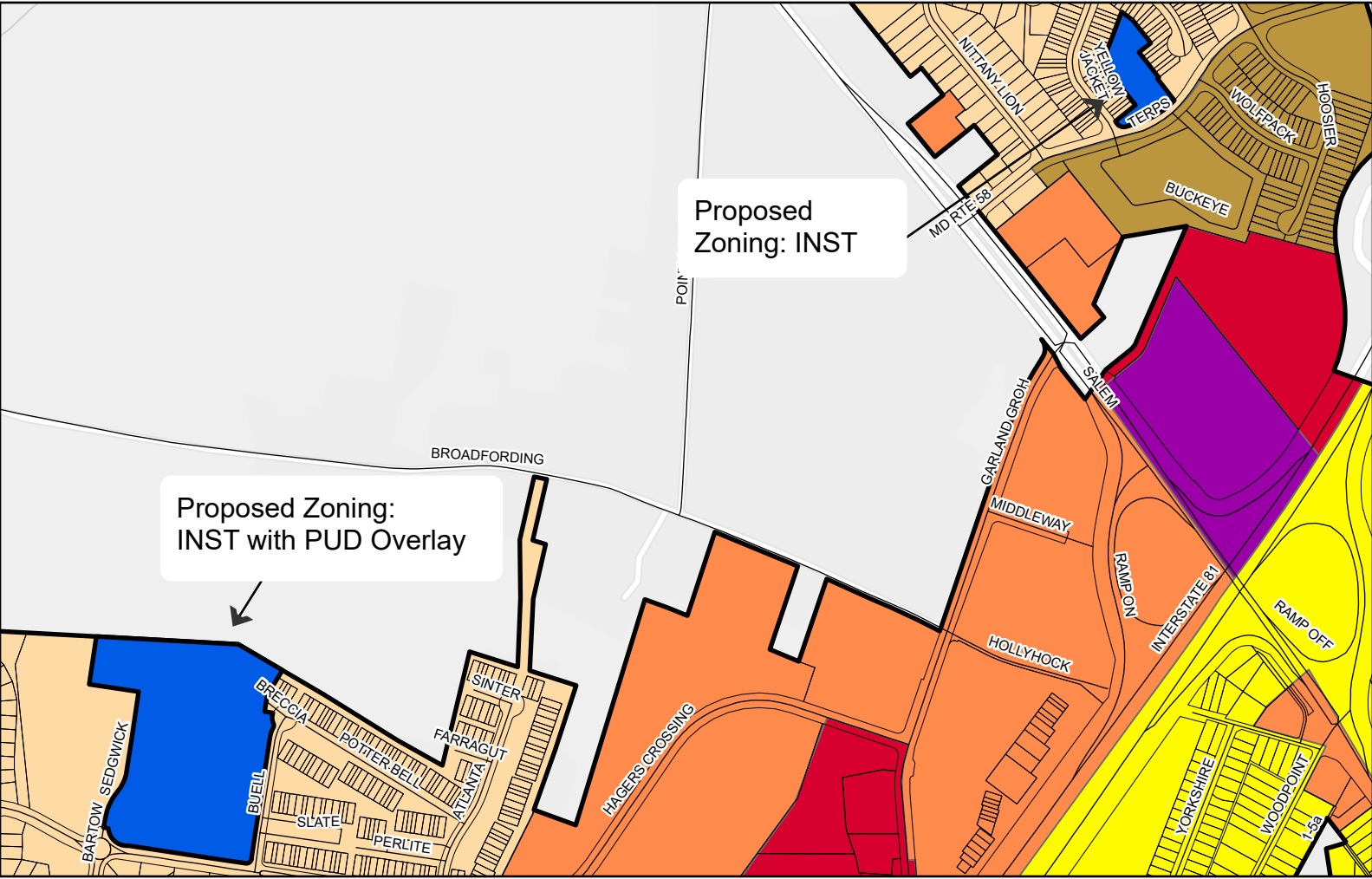
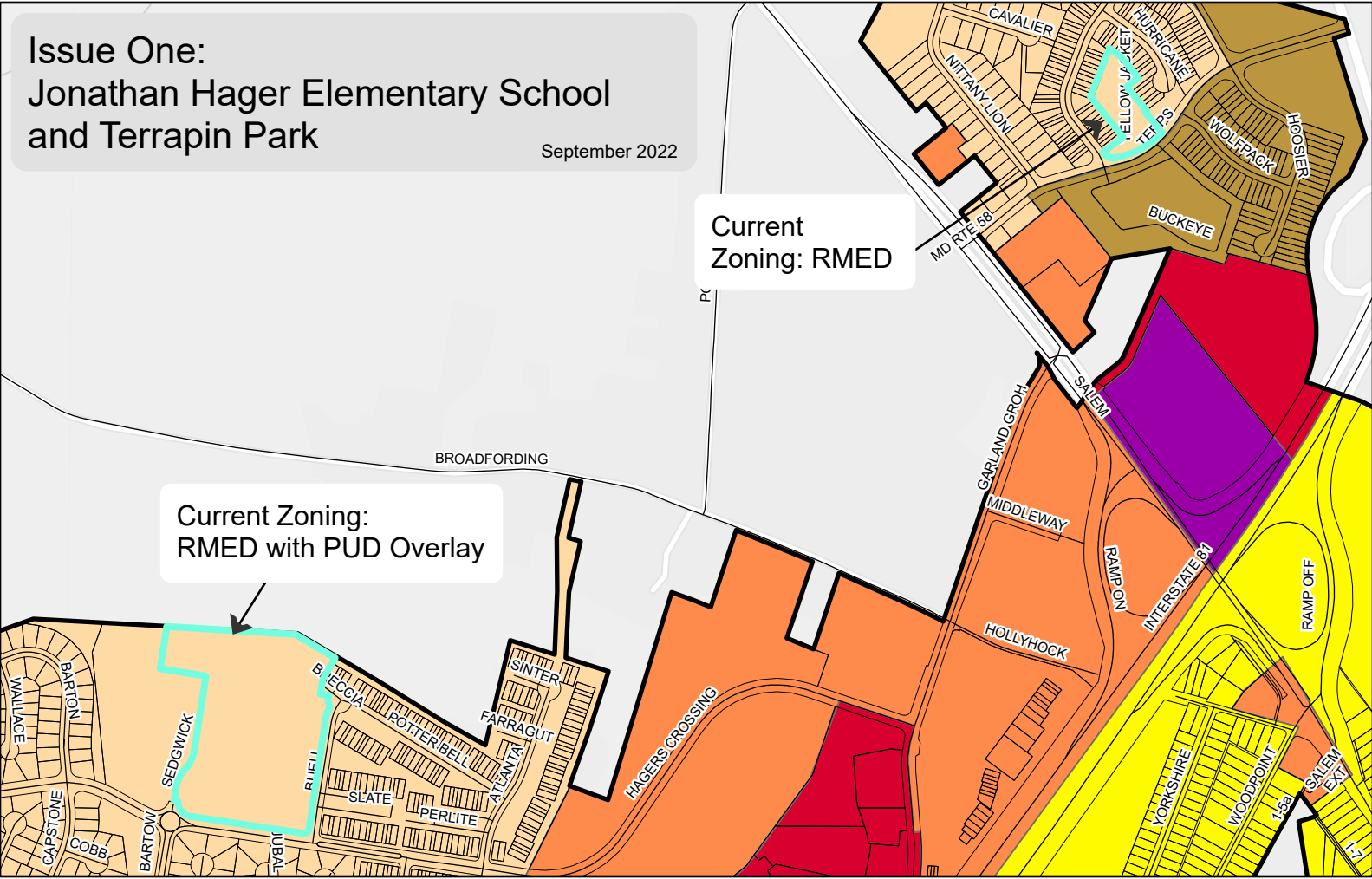
2022 Comprehensive Rezoning

September 2022



Issue One:
Jonathan Hager Elementary School
and Terrapin Park

September 2022



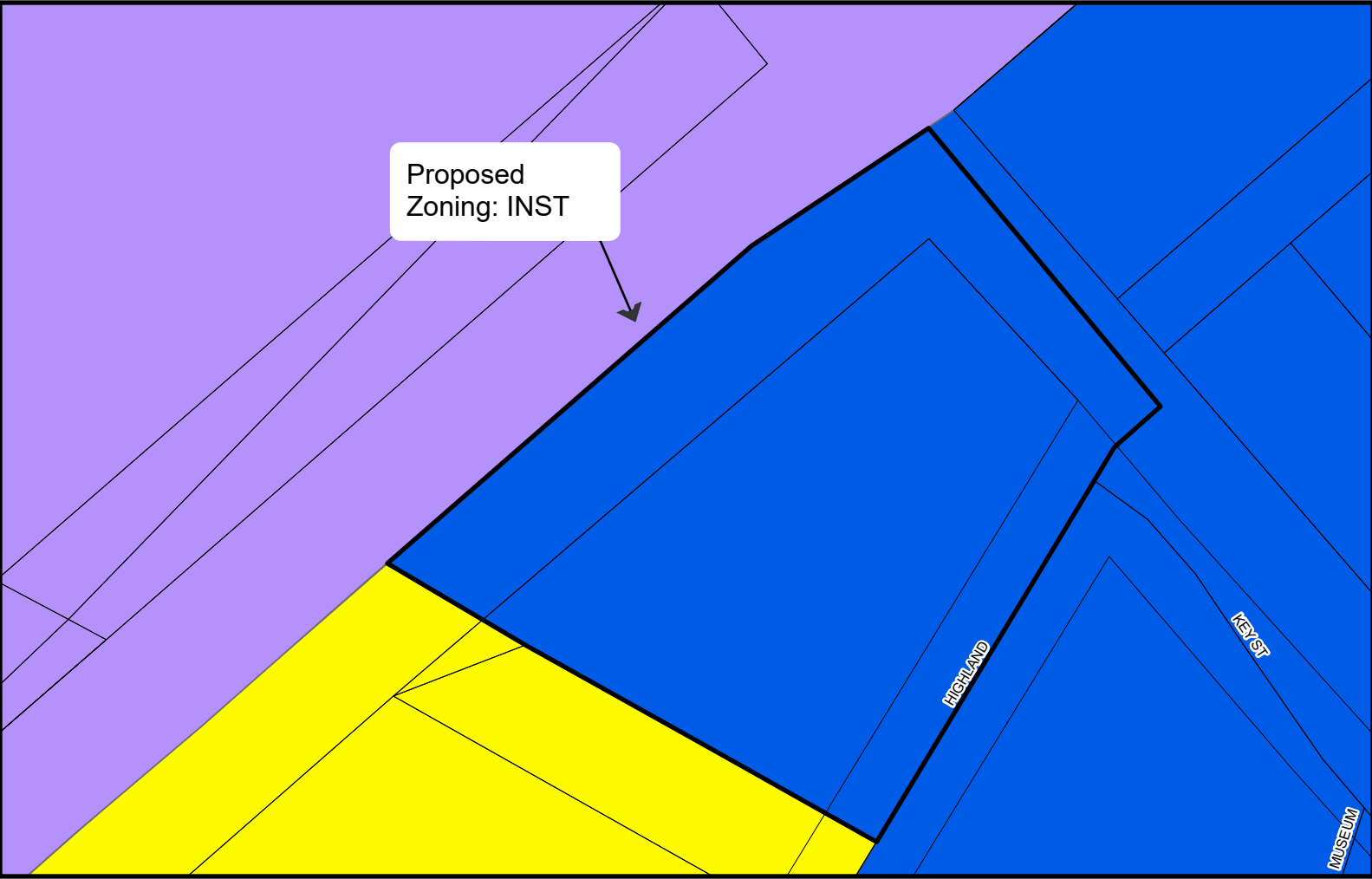
Issue Two:
321 Highland Ave and 115 Key Street

September 2022

Current Zoning:
RMOD



Proposed
Zoning: INST



Issue Three: Wheaton Park and 465 Pennsylvania Ave

September 2022

Current Zoning:
RMED

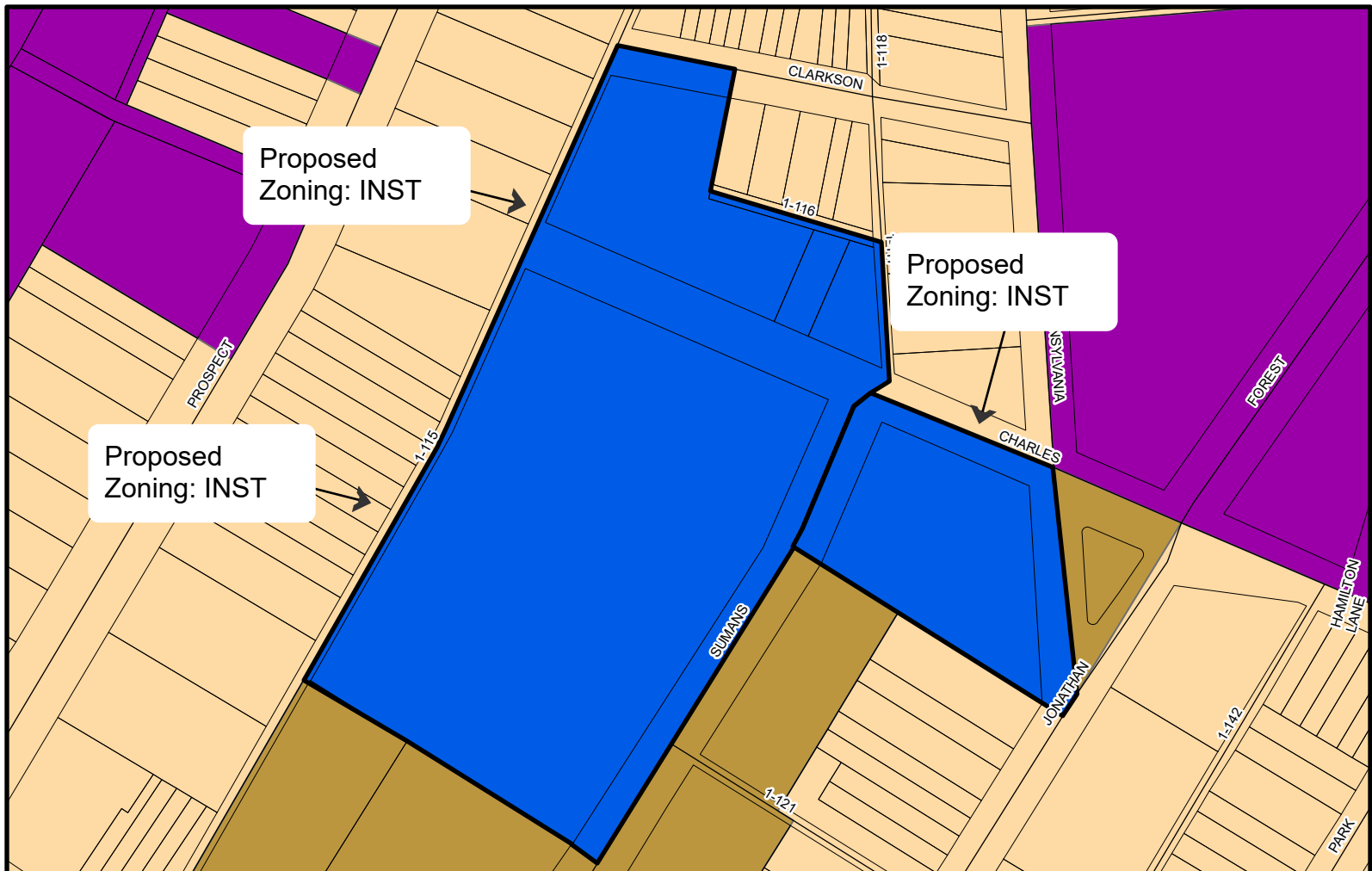
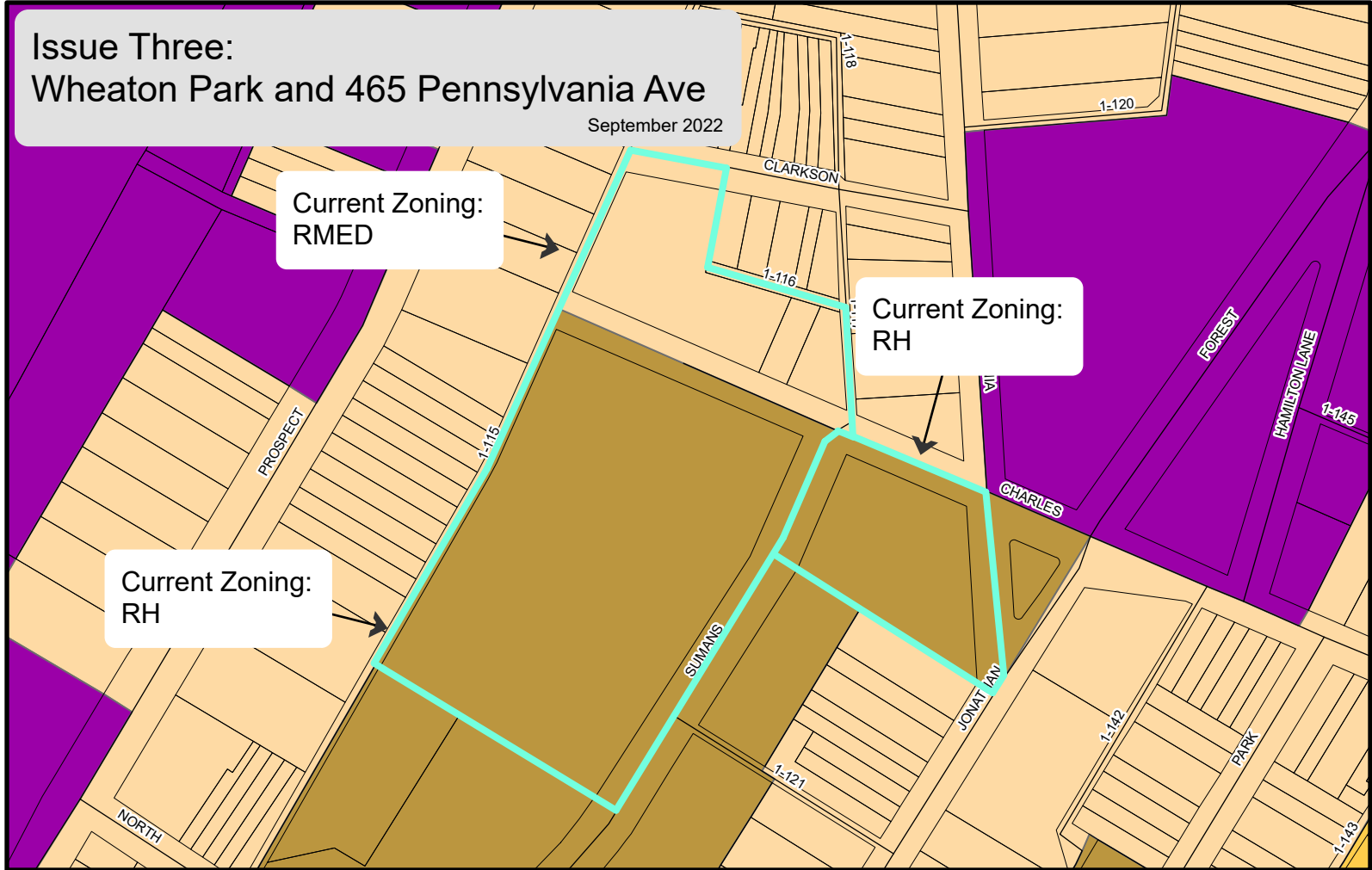
Current Zoning:
RH

Current Zoning:
RH

Proposed
Zoning: INST

Proposed
Zoning: INST

Proposed
Zoning: INST



Issue Four:
Oswald Park and Woodland Way Park

September 2022

Current Zoning:
RMOD

Current Zoning:
RMOD

Proposed
Zoning: INST

Proposed
Zoning: INST

Issue Five:
Rotary Club of Long Meadows Park

September 2022

Current Zoning:
RMOD

WOODLAND

NORTHERN

THE TERRACE

S-16

Proposed
Zoning: INST

WOODLAND

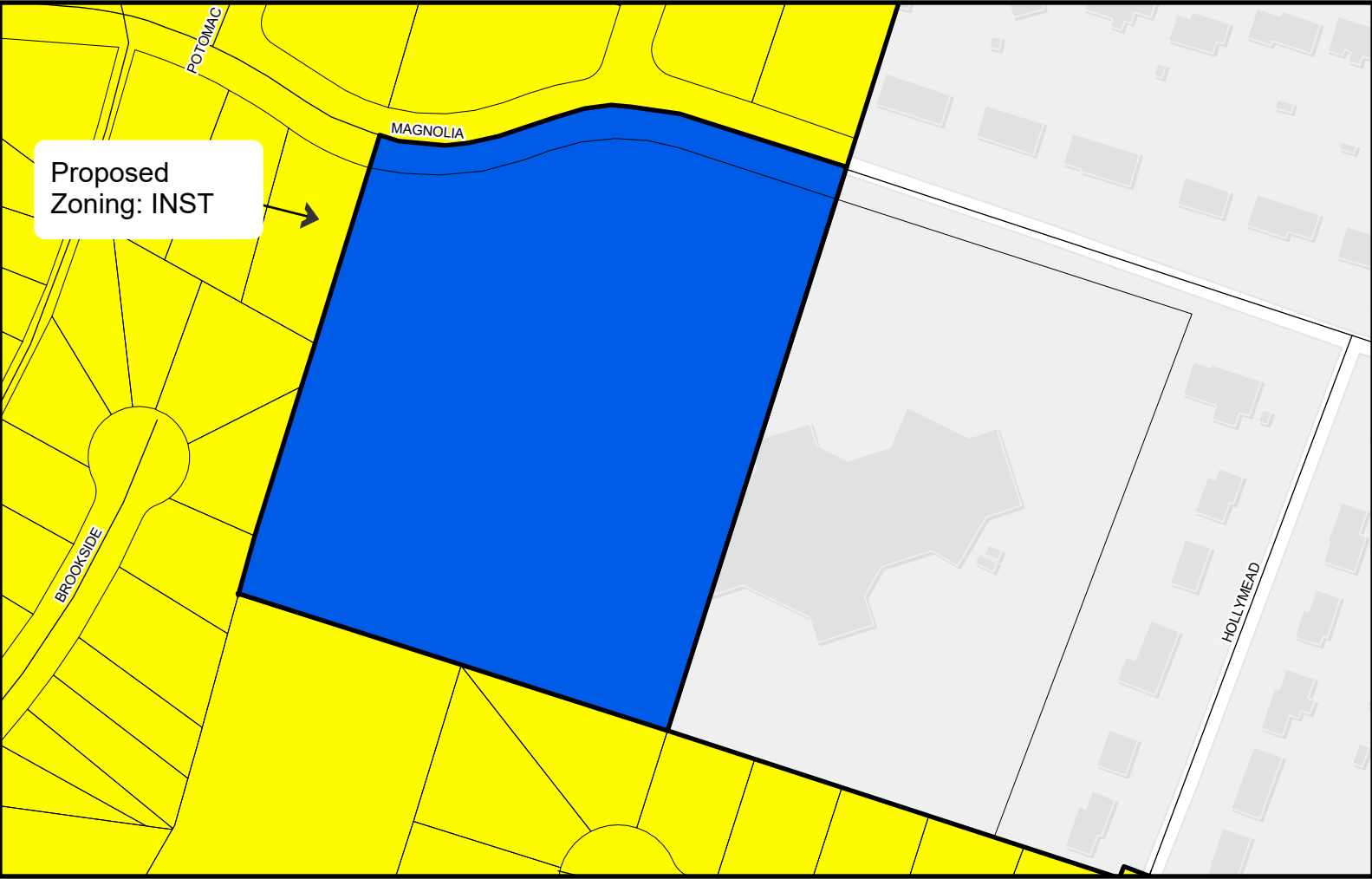
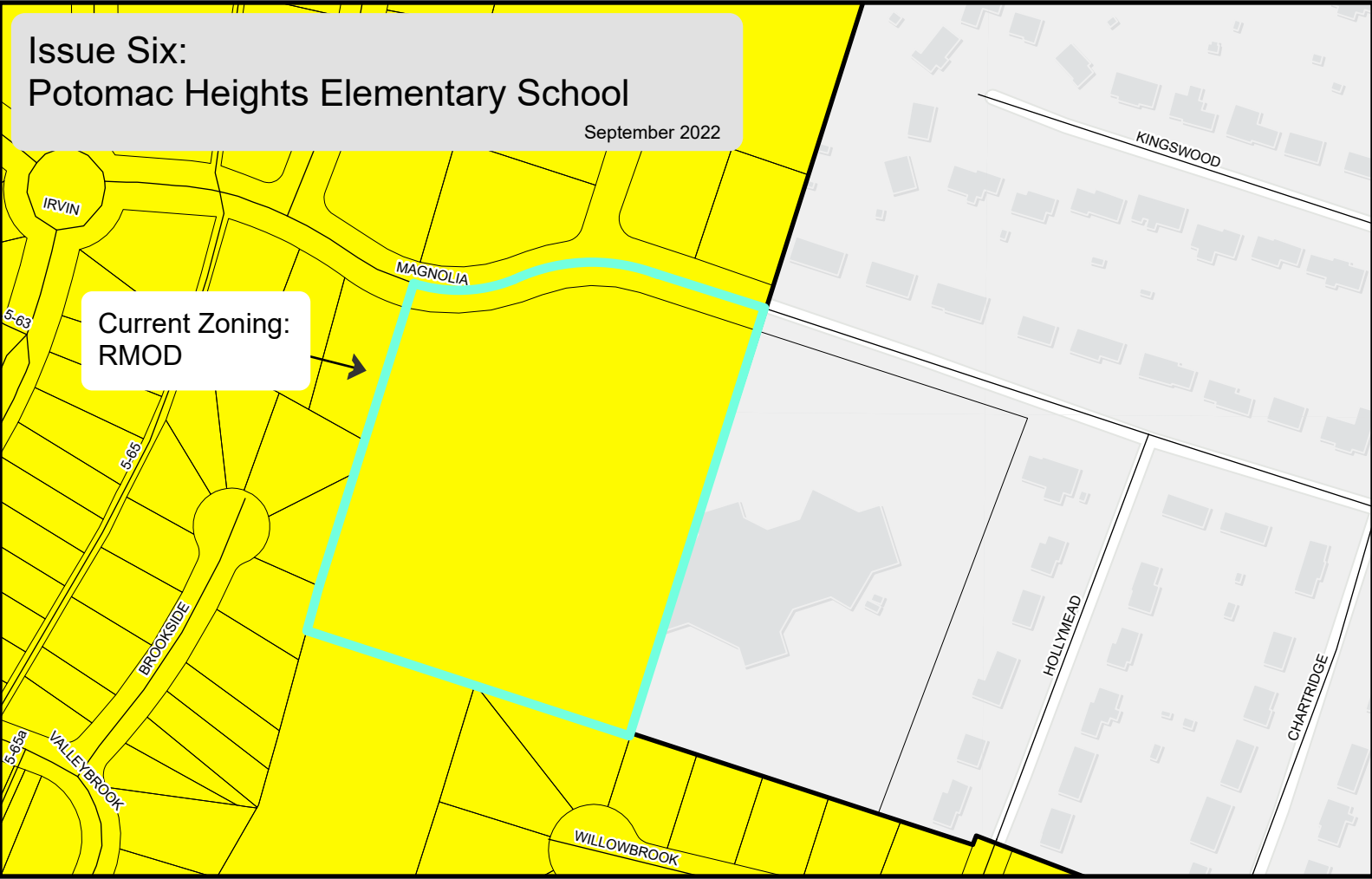
NORTHERN

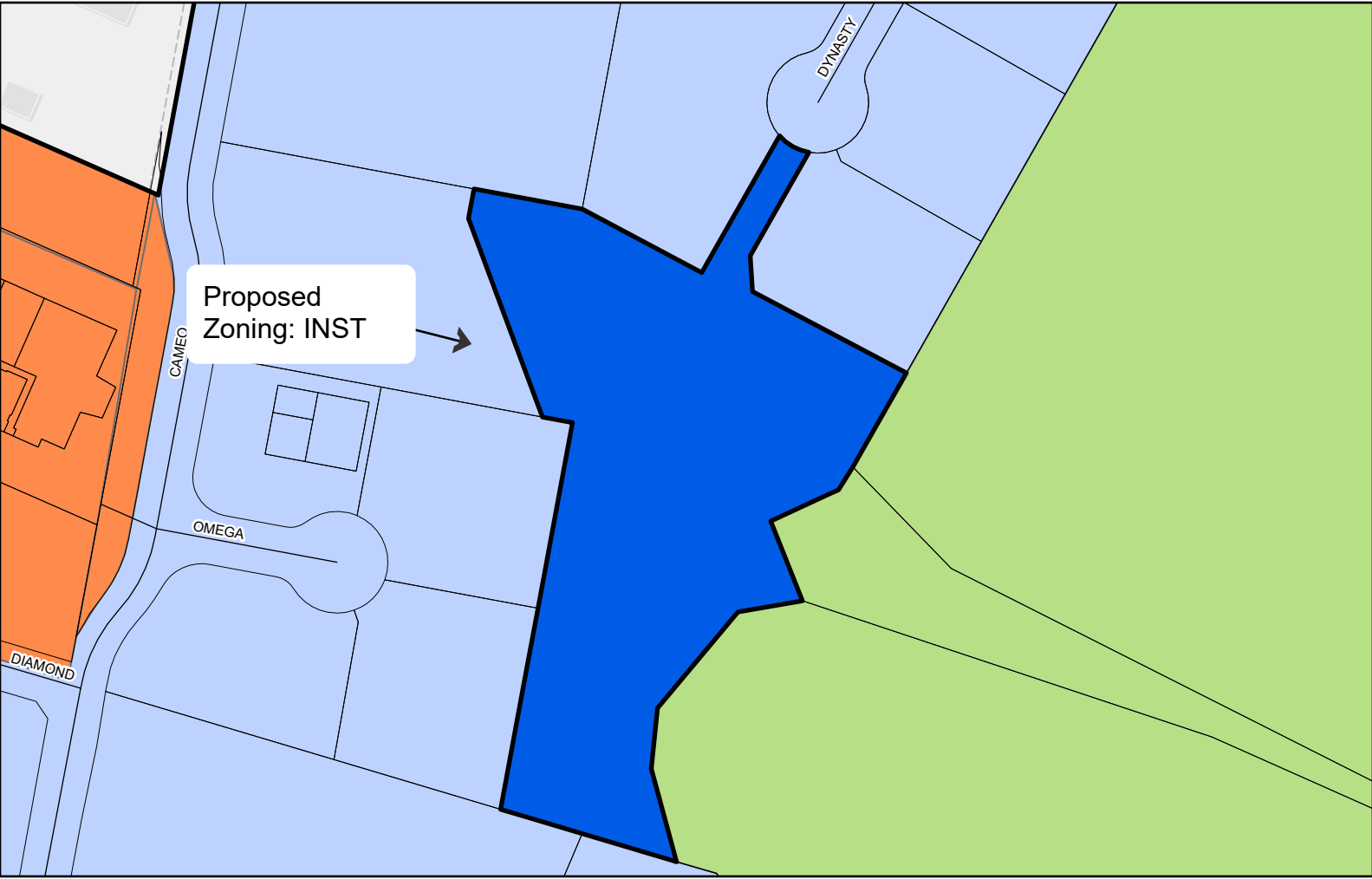
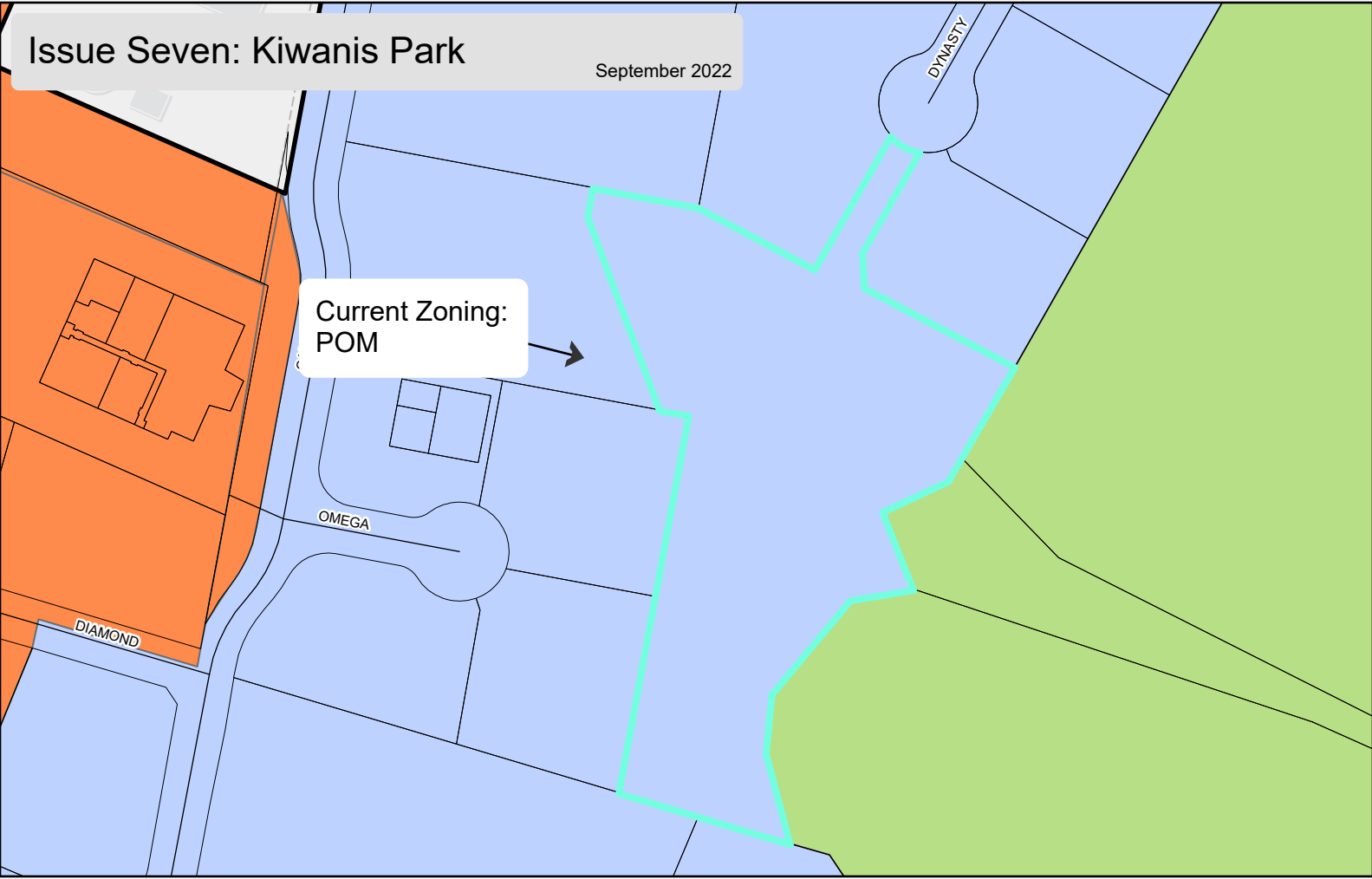
THE TERRACE

S-16

Issue Six:
Potomac Heights Elementary School

September 2022



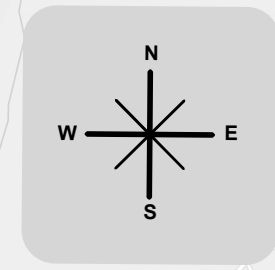


City of Hagerstown

Zoning

Draft 2022 Comprehensive Rezoning

- Street
- Corporate Boundary
- Funkstown Corporate Boundary
- City Parcels



Zoning District

- AT (Agricultural Transitional)
- RMOD (Residential-Moderate Density)
- RMED (Residential-Medium Density)
- RH (Residential-High Density)
- RO (Residential-Office)
- CC-MU (City Center-Mixed Use)
- N-MU (Neighborhood-Mixed Use)
- CL (Commercial Local)
- CG (Commercial General)
- CR (Commercial Regional)
- POM (Professional Office Mixed)
- INST (Institutional)
- I-MU (Industrial-Mixed Use)
- IR (Industrial Restricted)
- IG (Industrial General)

Rezoning Exhibits

Overlay

- Conversion District
- Landmark
- Local Conversion District
- Planned Unit Development
- Historic District**
 - Downtown Historic District
 - Oak Hill Historic District
 - Potomac/Broadway Historic District
 - Prospect Street Historic District

Zoning Overlay	Case Number	Address
CONVERSION DISTRICT	ZM-1987-04	Highland Ave
CONVERSION DISTRICT	ZM-1988-03	400 Forest Dr
CONVERSION DISTRICT	ZM-1990-02	901 Pope Ave
CONVERSION DISTRICT	ZM-2009-03	237 Frederick St
CONVERSION DISTRICT	ZM-2022-01	535 Summit Ave
LANDMARK	A-2001-01	12810 Shank Farm Way
LANDMARK	A-2005-07	17514 W Washington St
LANDMARK	ZM-1993-01	837 Concord St
LANDMARK	ZM-1993-02	640 Security Rd
LANDMARK	ZM-2003-03	414 W Washington St
LANDMARK	ZM-2005-01	1009-1011 Pennsylvania Ave
LANDMARK	ZM-2008-02	239 N Locust St
LANDMARK	ZM-2020-02	Saylor House in Kiwanis Park
LOCAL CONVERSION DISTRICT	ZM-2010-03	991 Maryland Ave
LOCAL CONVERSION DISTRICT	ZM-2011-01	247 N Locust St
LOCAL CONVERSION DISTRICT	ZM-2017-02	1301 Potomac Ave
LOCAL CONVERSION DISTRICT	ZM-2020-01	202 Howard St
LOCAL CONVERSION DISTRICT	ZM-2021-01	4 Cypress St
LOCAL CONVERSION DISTRICT	ZM-2021-02	245 N Potomac St
PLANNED UNIT DEVELOPMENT	ZM-1986-05	East Ridge Dr
PLANNED UNIT DEVELOPMENT	ZM-1999-02	Kensington Drive
PLANNED UNIT DEVELOPMENT	ZM-2002-01	Hager's Crossing Drive

Map Projection: NAD 1983 StatePlane Maryland
FIPS 1900(US Feet)
Data Sources: City of Hagerstown, 2022
and Washington County, 2020
Prepared by: Rylee Ely, GIS Coordinator, 11/30/2022
M:\gis\PLANNING\GIS-Master Projects\Updated Projects
\Zoning Map



0 0.5 1 Mile

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Request for Allocation of ARPA Funds: City-Wide Restaurant Ready Grant Program ~ *Chris Siemerling, Economic Development Specialist and Jill Thompson, Director DCED*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

121322_ARPA_Restaurant_WS.pdf

Description

Request Allocation ARPA
Funds: City-Wide
Restaurant Ready Grant



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

14 N. Potomac Street • Suite 200A • Hagerstown, MD 21740

Email: DCED@Hagerstownmd.org

Telephone: 301.739.8577, Ext. 111 • Website: www.hagerstownmd.org/DCED

TO: Scott Nicewarner, City Administrator

FROM: Christopher Siemerling, Economic Development Specialist
Michelle Hepburn, Chief Financial Officer

DATE: December 9, 2022

RE: Request for Allocation of ARPA Funds: City-Wide Restaurant Ready Grant Program

Staff members will attend the December 13th, 2022 Work Session of the Mayor and City Council to review a proposal to create an incentive program utilizing ARPA funds.

This proposal is meant to respond to the negative economic impact small businesses faced as a result of the COVID-19 pandemic to lower the barriers associated with opening a restaurant within the City of Hagerstown's corporate boundaries.

Staff propose funding the program with a total of \$250,000 by reallocating the following:

- \$50,000 from "Negative Economic Impact – Create Home Office Space"
- \$200,000 from the "Revenue Replacement – Placeholder for future governmental services needs."

Attached: Draft Motion
Proposed Program Guidelines
Proposed Program Application
ARPA Funding Summary Charts

c: Jill Thompson, Director of Community and Economic Development

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: December 20, 2022

TOPIC: **Approval of American Rescue Plan Act (ARPA) City-Wide Restaurant Ready Grant Program**

Charter Amendment	—
Code Amendment	—
Ordinance	—
Resolution	—
Other	<u>X</u>

MOTION:

I hereby move for the Mayor and City Council to approve the attached Guidelines and Application Form to create the American Rescue Plan Act (ARPA) City-Wide Restaurant Ready Grant Program. Staff may make administrative edits with the approval of the City Administrator.

The program will be funded with \$250,000 of ARPA funding by reallocating the following:

- \$50,000 from “Negative Economic Impact – Create Home Office Space”
- \$200,000 from the “Revenue Replacement – Placeholder for future governmental services needs.”

DATE OF INTRODUCTION: 12/20/2022

DATE OF PASSAGE: 12/20/2022

EFFECTIVE DATE: 12/20/2022



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

14 N. Potomac Street • Suite 200A • Hagerstown, MD 21740

Email: DCED@Hagerstownmd.org

Telephone: 301.739.8577, Ext. 111 • Website: www.hagerstownmd.org/DCED

American Rescue Plan Act (ARPA) - City-Wide Restaurant Ready Grant Program Guidelines

Program Summary

Responding to the negative economic impact as a result of COVID-19, the City of Hagerstown is using part of its American Rescue Plan Act (ARPA) funds to lower the barriers associated with opening a restaurant within the City's corporate boundaries. The City of Hagerstown has developed an incentive program to assist with the attraction and fit-out of new restaurants that will foster a positive economic impact. Examples of such impact include creating jobs, increasing economic activity and foot traffic, and attracting additional businesses to the community.

Guidelines:

1. Grants awarded under the ARPA City-Wide Restaurant Ready Grant Program do not have a minimum, or a maximum award amount. The ARPA Review Committee will use the following criteria in determining a grant award amount:
 - a. Applicant/Project Need,
 - b. Viability of Business Plan/Restaurant Experience & Capacity,
 - c. Economic Impact of the Project,
 - d. Renovation Budget,
 - e. Square Feet Utilized,
 - f. Condition of the Building/Rectifying of Code Violations,
 - g. Length of Prior Vacancy.
2. Acquisition costs shall not be considered a part of the project cost.
3. Awarded grants require a 1:1 match from the application completing the project. Example: A \$10,000 grant would require a match of at least \$10,000 for a total project cost of \$20,000.
4. Funds may be used for the renovation/fit-out of an eligible space, and for the purchase of furniture, fixtures, and equipment.
5. Applicant must be the party responsible for the costs of the improvements.
6. No City loans, grants, or pass-through funding may be used as part of the applicant's match.
7. A project may be defined as planned or in progress. Completed projects are ineligible. For projects that are planned, project must start within 3 months of approval. For projects that are in progress, the applicant will be required to demonstrate expenditures equal to the grant and the required match (\$10K + \$10K = \$20K) related to work that was completed within 90 days prior to date of approval and the required date of completion. The City determines the required date of completion based on the project completion date shown on the application plus reasonable contingency.
8. Property location/project must be located within the corporate limits of the City of Hagerstown.
9. Timeline must show completion of project, and business open, no later than 7/1/2024.
10. Applicants may apply and utilize other grant and incentive programs.
11. All work for the project must be performed by licensed, permitted contractors, and all projects must comply with all federal, state, and local public health and environmental laws, regulations, or ordinances.
12. All upgrades must be performed to City Code, and will be regulated through the City's Planning and Code Administration Department.

13. Funds will only be disbursed after staff have verified all work in the Application and Development Plan has been completed to Code, including all required site inspection approvals, and final receipts have been provided.
14. The grant will be funded with Federal American Rescue Plan Act funds. Additional federal guidelines and steps in the approval process may apply.

Eligible Applications:

1. Projects seeking the creation of new, restaurant-ready, space in order to attract new restaurants.
2. Tenant restaurant operator with responsibility for cost of fit out and with draft lease and final signed lease within 45 days of approval.
3. Eligible spaces are defined as currently vacant commercial tenant spaces, a space where a property owner has received a notice to vacate, or those that were previously used for a restaurant and require significant upgrades to core systems.
4. Any restaurant that is new, expanding at, or relocating to properties in the City of Hagerstown.
5. An eligible restaurant is defined as any type of food and beverage establishment, catering company, brewery/winery/distillery with tasting room, or other business that requires a commercial kitchen and is open for either dine-in or carry-out to the public.
6. Only one application per property for either a restaurant operator or a property owner will be permitted.

Ineligible Applications:

1. Ineligible businesses for the program include: home-based or “roving” businesses, drinking establishments without dine-in or carry-out services, hookah shops/lounges, adult businesses, and any business prohibited under Federal guidelines.
2. Non-profit entities are ineligible.
3. Operating expenses such as rent, utilities, employee salaries, etc. are ineligible for the program.
4. Individuals, businesses, and properties that are not in Good Standing with the City of Hagerstown or State of Maryland will not be considered.
5. Façade & signage improvements are ineligible for funding and/or match requirements.

Application Process and Requirements:

1. Complete the ARPA City-Wide Restaurant Ready Grant Application, and provide all required attachments.
2. Return completed application and required attachments via email to dcled@hagerstownmd.org, or in person/mail to 14 N. Potomac Street, Suite 200A, Hagerstown, MD 21740.
3. All grants are subject to funding availability.
4. All applications shall be reviewed and approved by a committee called the ARPA Review Committee, and are reviewed on a first-come, first-served basis.
5. The ARPA Review Committee will review the application and supporting documents to determine the eligibility and level of funding that may/may not be awarded.
6. Approved applicants will receive a Letter of Commitment from the City of Hagerstown which may be used to assist in financing the project.
7. Grants will be paid following the completion of an approved project and submission of final receipts for the approved scope of work/intended purchases.
8. The City will issue a 1099 form following grant disbursement, and the grant may be taxable based on that year’s State and Federal tax guidelines.
9. Once a project is approved, any changes in the scope of timeline will require the project to be resubmitted for determination of continued eligibility.
10. A signed lease will be required for restaurant operator applicants within 45 days of approval.
11. Additional project information may be requested at any time during the process.



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

14 N. Potomac Street • Suite 200A • Hagerstown, MD 21740

Email: DCED@Hagerstownmd.org

Telephone: 301.739.8577, Ext. 111 • Website: www.hagerstownmd.org/DCED

AMERICAN RESCUE PLAN ACT (ARPA) City-Wide Restaurant Ready Grant Program

Applicant Type:

- ☐ Property Owner – Space Improvement for
 - ☐ Known Restaurant Tenant
 - ☐ Unknown Restaurant Tenant
- ☐ Restaurant Operator
 - ☐ Owner-Occupied
 - ☐ Tenant with Draft Lease or Lease

Property Information

Property Address: _____, Hagerstown, MD Zip: _____

Applicant Information:

Name: _____

Company: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____ Website: _____

Name of Restaurant Tenant (if not Applicant): _____

Project Information

Expected Start Date: _____

Expected Completion Date: _____

Note: Projects must be completed, and business open, no later than 7/1/2024 due to ARPA restrictions.

Anticipated Fit-Out Costs: \$ _____

Anticipated Equipment/Furnishing Cost: \$ _____

Total Project Cost: \$ _____

Grant Request Amount: \$ _____

Project Square Feet: _____ sqft

Has the property been vacant, and if so, for how long? (Yes / No)

Vacant Since _____ (month/year)

Terms of Lease:

Lease Start Date: _____ Number of years: _____

How many new jobs will be created within 2 years of the project completion? ____ new jobs

How many jobs will be retained as a result of this project? ____ jobs

Required Attachments:**ALL APPLICANTS:**

- ☐ Narrative Description of Project to Include:
 - Description of the Project including renovations, improvements; Furniture, Fixtures and Equipment (FFE)
 - Description of the restaurant proposing to lease or be attracted to the space
 - Description the anticipated economic impact of the business/project on the immediate commercial area/neighborhood
- ☐ Design Plans and Occupancy Plan
- ☐ Project budget and construction/equipment cost estimates itemizing the scope of work for the project
- ☐ Project Timeline
- ☐ Photo(s) including 1 front, street view of the property
- ☐ Financing plan showing proposed funding sources and any other incentives or grants being used (bank statement, confirmed loan letter, award letters, etc.)

Restaurant Operator Applicants – Must Also Include:

- ☐ Business Plan with Financial Projections
- ☐ Draft Lease (Final Signed Lease Within 45 Days of Approval)

Applicant Signature:

By signing below, I certify that the information above is true and correct, I agree to comply with the program requirements and eligibility as described in the ARPA Grant Guidelines, and I understand that if my application is approved, failure to comply will result in termination of the Letter of Commitment.

Applicant's Signature

Date

Return to:

City of Hagerstown
Department of Community & Economic Development
14 N. Potomac, Suite 200A, Hagerstown, MD 21740
Phone: 301-739-8577 ext 111 Email: dcled@hagerstownmd.org

City of Hagerstown

ARPA Funding Summary as of November 2022: Projects Allocated and Started

Public Health	Negative Economic Impact	Negative Economic Impact: Public Sector	Infrastructure	Revenue Replacement	Premium Pay/Administrative
32 N. Potomac Purchase Description: Relocation of Customer Service/Billing Spent to Date: \$825,000 \$1,000,000	Convention and Visitor's Bureau (CVB) Description: Aid to assist with marketing, advertising and sponsorships for tourism industry impacted by COVID-19 Spent to Date: \$350 \$125,350	Outreach Coordinator Position Description: New position to be a liaison between the city and social service agencies Spent to Date: \$8,569 \$90,000	Pump Station #13 Description: Will address service demands from flow transfer area Spent to Date: \$0 \$2,420,000	HFD Ladder Truck Description: Purchase of additional ladder truck for fire department Spent to Date: \$732,336 \$1,200,000	Grant Coordinator Description: Estimated annual salary/benefits for 3-year temporary position Spent to Date: \$91,472 \$288,000
Goodwill Community Outreach Description: Recruit/Hire 2 Outreach Coordinators for homeless coordinated entry services Spent to Date: \$0 \$12,800	FSU HUB @USMH Description: Provide temporary funding to maintain early childhood learning program Spent to Date: \$0 \$12,500		Pump Station #9/#33 Description: Will address service demands from flow transfer area Spent to Date: \$0 \$3,000,000	Drones Description: Purchase of drones for HPD Spent to Date: \$0 \$150,000	
			Stormwater Project Description: Stormwater retention area at municipal stadium site Spent to Date: \$0 \$700,000	HPD Body-Worn Cameras Description: Purchase of Cameras/Taser/Virtual Training Program Spent to Date: \$174,265 \$522,796	
				PAL Roof Description: Roof repair Spent to Date: \$0 \$394,000	
				HFD Natural Gas Generator Description: Replacement of the natural gas powered diesel generator at fire station 3. Spent to Date: \$0 \$120,490	
\$1,012,800	\$137,850	\$90,000	\$6,120,000	\$2,387,286	\$288,000

Total ARPA Funds Received: \$20,421,010

Total Allocated and Started Projects: \$10,035,936

Total Allocated and Completed Projects: \$2,913,651

Remaining Unallocated Funds: \$7,471,423

City of Hagerstown

ARPA Funding Summary as of November 2022: Projects Proposed and Not Started

Remaining Unallocated Funds: \$7,471,423

Public Health	Negative Economic Impact	Negative Economic Impact: Public Sector	Infrastructure	Revenue Replacement	Premium Pay/Administrative
Behavioral and Mental Health Description: 24-Hour Crisis Center, Accreditation Costs for Service Providers, Expanding Availability of Counselors, Bridge Funding Gap for Treatment, Youth Violence Prevention Program	Negative Economic Impact Description: Increase educational/training opportunities for City residents, Expand transit for employment, HCC and USMH Scholarships, Affordable daycare program for students and new job seekers, Downtown Training Space	Office 365 Implementation Description: Purchase of software for upgrade and standardization of all city employee workstation systems, stabilizing operational environment.		HPD Firing Range Target System Description: Upgrade for the existing firearms system and modernization of training facility	
	\$425,000	\$120,000		\$40,000	
\$500,000 Violence Prevention Program Description: Funding to create program	Create Home Office Space Description: Funds for individuals to create home office space	Citywide Phone System Upgrade Description: Upgrade of phone system to streamline and stabilize operations.		Fuel Station Mgmt and Tank Gauge System Description: Replacement of fuel management and tank gauge system, underground tanks and piping	
\$25,000	\$50,000			\$20,000	
	Support Local Artists & Bands Description: Provide incentives and support to local artists	\$75,000		Professional Court Extension Description: Costs shared with the county for development of new road access beyond the current eastern edge of the City to Robinwood/ hospital area	
	\$25,000			\$1,150,000	
	Blight Eradication/Affordable Housing Description: Acquire, demolish/renovate blighted buildings, work with landlords to rehab rental properties or non-profit facilities			City Hall Elevator Replacement	
	\$500,000			\$200,000	
				Placeholder for future governmental services needs: 32 N. Potomac basement; City Hall A/C	
				\$4,341,423	
\$525,000	\$1,000,000	\$195,000	\$0	\$5,751,423	\$0

City of Hagerstown

ARPA Funding Summary as of November 2022: Completed Projects

Public Health	Negative Economic Impact	Negative Economic Impact: Public Sector	Infrastructure	Revenue Replacement	Premium Pay/Administrative
Hagerstown Ice Rink Description: Required upgrades to air intake dehumidification system \$190,425		2-Factor Authentication Software Description: Additional security for the City's network \$26,675		Backhoe Purchase Description: For service and maintenance in Public Works and Parks/Rec Dept \$128,414	Premium Pay (city employees) Description: Pandemic compensation for essential employees \$2,153,000
				Camera Truck Description: Replacement of camera rig for pipe system maintenance \$415,137	
\$190,425	\$0	\$26,675	\$0	\$543,551	\$2,153,000

Total Spent on

Completed Projects:

\$2,913,651

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Program Open Space (POS) Annual Program - *Eric Deike, Director of Public Works*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Program_Open_Space_(POS)_Annual_Program.pdf

Description

Memo - POS



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Eric B. Deike, Director of Public Works 

DATE: December 8, 2022

SUBJECT: Program Open Space (POS) Annual Program

MAYOR AND COUNCIL ACTION REQUESTED

Staff is seeking direction and approval from the Mayor and Council on recommendations for the Program Open Space (POS) funds for Fiscal Year 2024 and beyond.

DISCUSSION

Each year, staff reviews and recommends any number of projects to be submitted for POS funding through Washington County Government. The list of projects for Fiscal Year 2024 is to be submitted by December 29, 2022.

The list of projects in order of priority are as follows:

1. Hager House - Phase I Renovation of the Visitor's Center: Designs have been completed on the renovation of the visitor's center which houses local artifacts from the area and from the Hager House.
2. Antietam Creek Waterway Trail: This is to create a creek access point on the north side of the Mt. Aetna Road bridge. This is additional funding to supplement the \$45,000 in POS funds received in 2020 since that wasn't adequate to get the design and construction done.
3. Hagerstown Field House: Request would be for funding a portion of the new indoor basketball courts.

FINANCIAL IMPACT

POS funding requires a 10% match from the City. If all three projects were to be accepted, the impact would be a match of \$55,000.

RECOMMENDATION

Staff recommends submitting the entire list as attached. Washington County staff will review the project to determine which projects may be funded.

C: Mark Haddock
Cathy Beach
Rodney Tissue
Michelle Hepburn

Public Works Department
51 West Memorial Blvd.
Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 178

Parks and Recreation Division
351 North Cleveland Ave.
Hagerstown, MD 21740
Ext. 169

Parking Division
25 East Franklin St.
Hagerstown, MD 21740
Ext. 479

CITY OF HAGERSTOWN
5-YEAR PROGRAM OPEN SPACE
PROPOSED PLAN FY24 – 28 (Listed by Priority)

Fiscal Year	CIP #	Project	Location	Est. Cost	POS Funds Requested	City Match
2024	C0061	Visitor Center, Phase I Renovation	City Park, Hager House	\$150,000	\$135,000	\$15,000
2024	C0751	Antietam Creek Water Trail creating creek access (design & construction)	Mt. Aetna Road	\$150,000	\$135,000	\$15,000
2024	C0041	Hagerstown Field House Indoor Basketball Courts	Memorial Blvd.	\$250,000	\$225,000	\$25,000
2025	C0047	Park Lake Improvements (replaces perimeter walls, dredge lake, landscaping, repair leaks)	City Park	\$500,000	\$200,000	\$20,000
2025	C0522	Build New Park Gazebo by Mansion House	City Park	\$20,000	\$18,000	\$2,000
2025	C0522	Mansion House Rehab (repaint porch, reconstruct railing, replace steps, repair rear wall)	City Park	\$30,000	\$27,000	\$3,000
2025	C0061	Visitor Center, Phase II Renovation	Hager House, City Park	\$150,000	\$135,000	\$15,000
2026	C0439	Replace Roof of Train Museum	City Park	\$10,000	\$9,000	\$1,000
2026	C0825	Golf Course Improvements of Cart Paths, Tee Boxes, Greens	The Greens at Hamilton Run Improvements	\$100,000	\$90,000	\$10,000
2027	C0626	Parking Lot Improvements Near BMX	Fairgrounds Park	\$250,000	\$225,000	\$25,000
2027	C0626	Add Lights to Soccer Fields	Fairgrounds Park	\$170,000	\$63,000	\$107,000 by others
2028	C0626	Renovate Gatekeeper's House	Fairgrounds Park	\$500,000	\$450,00	\$50,000

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Street Closure Request & Event Changes - Antietam Velo Club Bike Race and 5K - *Eric Deike, Director of Public Works, Amy Riley, Recreation Coordinator, and Joe Jefferson, Antietam Velo Club*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Street_Closure_Request_and_Event_Changes_-_
_Antietam_Velo_Club_Bike_Race_and_5K.pdf

Description

Street Closure Request &
Event Changes - Antietam
Velo Club Bike Race and
5K



CITY OF HAGERSTOWN, MARYLAND

Public Works Department
Parks & Recreation Division
www.hagerstownmd.org/parksandrec

TO: Scott Nicewarner, City Administrator
FROM: Amy Riley, Recreation Coordinator
DATE: December 7, 2022
SUBJECT: Street Closure Request & Event Changes-Antietam Velo Club Bike Race & 5k

Staff and Joe Jefferson will attend the council meeting on December 13, 2022 to answer any questions regarding changes and additions to the annual Antietam Velo Club Criterium Bike Race. These events will serve as substitutes for the annual cycling event that has taken place in the Arts and Entertainment District. Proposed changes include:

- Moving the event date from the month of June to Saturday, May 6, 2023
- New location and race route, see details below and attached map
- Addition of a 5k foot race

Action Requested

City staff request approval from Mayor and Council for the following low impact street closures:

Cycling Event Course Description (map attached):

Start on Prospect Ave near The Terrace intersection heading east. Right turn on Oak Hill Ave. Right turn on Charles Street. Right turn on Hamilton Ln. Merge onto Forest Dr. Right turn on Prospect Ave and back to the finish.

5k Foot Race Course Description (map attached):

Start on Prospect Ave (near Apple Alley) traveling east. Right turn on Oak Hill Ave. Right turn on Charles Street. Right turn on Hamilton Ln. Merge onto Forest Dr. Left on Park Ln. Right on Woodland Way. Right on W. Hillcrest Rd. Right on The Terrace. Left of Prospect Ave. *Upon reaching Prospect Ave at the conclusion of the first lap, participants will complete another lap on the exact same route before finishing back on Prospect Ave near Plum Alley.*

The cycling loop has been used for multiple cycling events in the past, although it has not been used in 10 or more years. The foot race loop was created with the recommendation of the Hagerstown Police Department and has been reviewed (in person) and approved by police personnel.

The City's Logistics Committee (representatives from Public Works, Engineering, Parks & Recreation, Police, Fire, and HR/Liability) review all facets of these events to ensure compliance, safety, and to create conditions for optimal event outcome. All applicants will provide the City with a Certificate of Insurance naming the City of Hagerstown as additional insured.

Cc: Eric Deike, Director of Public Works

Public Works Department
51 West Memorial Blvd.
Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 178

Parks and Recreation Division
351 North Cleveland Ave.
Hagerstown, MD 21740
Ext. 169

Parking Division
25 East Franklin St.
Hagerstown, MD 21740
Ext. 479

HILLCREST RD.

WOODLAND WAY

PARK LN.

FOREST DR.

THE TERRACE

FOOT RACE
COURSE

PROSPECT AVE.

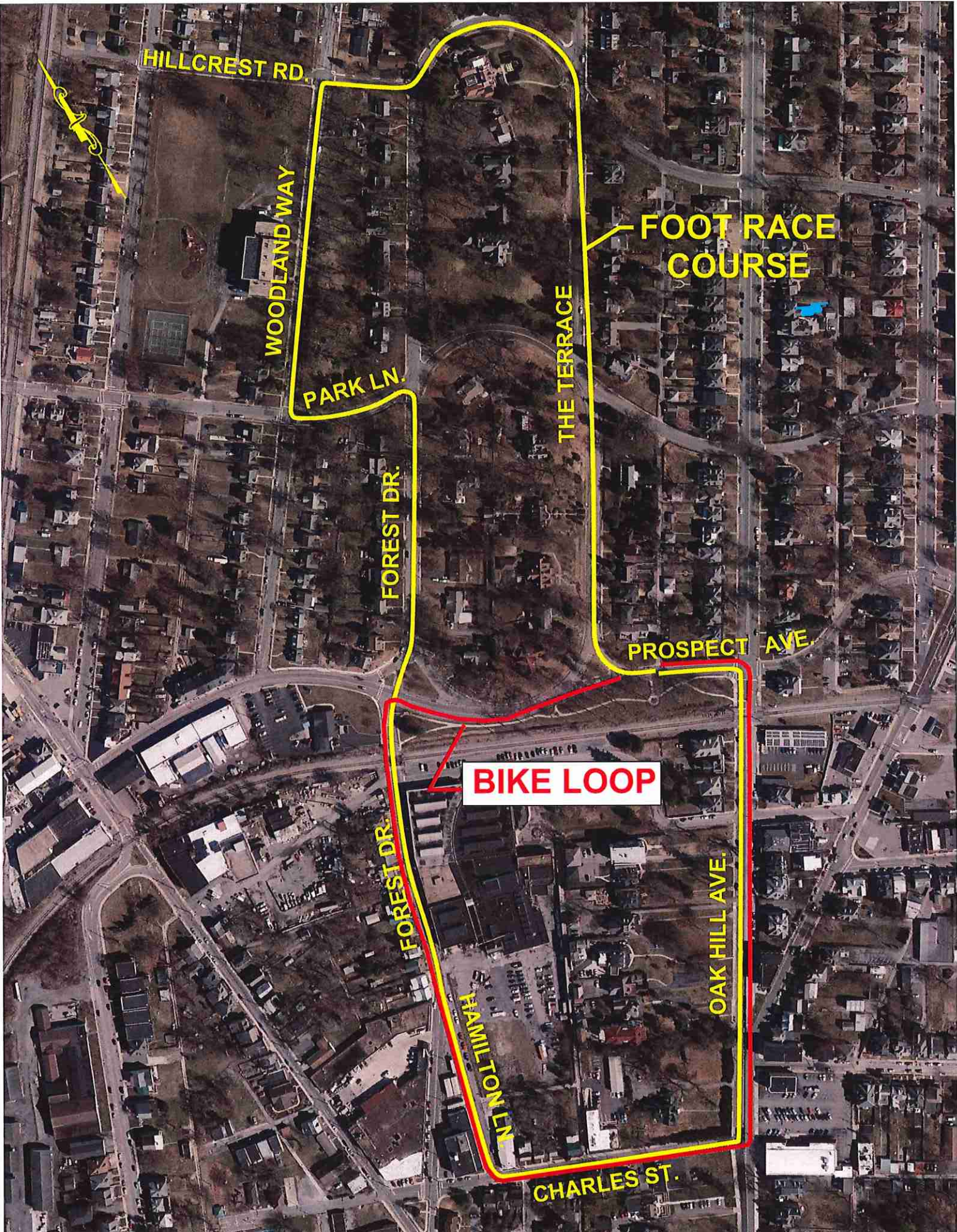
BIKE LOOP

FOREST DR.

HAMILTON LN.

OAK HILL AVE.

CHARLES ST.



**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Request from Blackthorn Capital Partners to Convey Land - *Rodney Tissue, City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Blackthorn_Capital_Partners.pdf

Description

Request from Blackthorn
Capital Partners to Convey
Land



CITY OF HAGERSTOWN, MARYLAND

Engineering Department

December 13, 2022

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer 
RE: Request from Blackthorn Capital Partners to Convey Land

As a follow-up to our discussion with City Council in July 2021, Blackthorn Capital Partners purchased #51-53 West Washington Street (most recently Potomac Bead) and is currently renovating the building. Blackthorn is seeking retail tenants for the first floor and the upper floors will be market-rate one and two bedroom apartments.

Per the attached plat, the yellow shaded area represents the 351 square feet of land to be transferred from the City to Blackthorn to allow them to modify their building and hopefully establish outdoor dining. The City is reserving easements over portions of this land to provide continued access to our utilities.

If Council is willing to grant this conveyance, staff will prepare the proper Ordinance for Council approval. The plat must be approved by the Planning Department and recorded prior to closing.

Staff will be present to discuss and answer any questions.

Attachments: Property Acquisition Agreement
Plat (Exhibit 1 to the Agreement);
Special Warranty Deed (Exhibit 2 to the Agreement).

Cc: Henry Brown
Jason Morton
Steve Bockmiller

PROPERTY ACQUISITION AGREEMENT

THIS PROPERTY ACQUISITION AGREEMENT (this “**Agreement**”) is entered into this _____ day of _____, 2023 (the “**Effective Date**”), by and between the **CITY OF HAGERSTOWN**, a Maryland municipal corporation (the “**City**”) and **BCP Hagerstown, LP**, a Delaware limited liability partnership (“**BCP**”).

RECITALS

A. The City is the owner of those certain parcels of real property located at 49-53 W. Washington Street, Hagerstown, described in a deed recorded among the Land Records of Washington County, Maryland at Liber 6640, folio 169, and which constitutes a portion of its Cultural Trail (collectively, the “**City Property**”).

B. BCP owns property immediately to the west of the City Property, described in a deed recorded among the Land Records of Washington County, Maryland at Liber 6950, folio 374 (“the BCP Property”). BCP intends to improve the BCP Property with residential and retail development, including but not limited to a restaurant with outdoor dining along the Cultural Trail (“the Improvement Plan”).

C. To facilitate the Improvement Plan, BCP desires to acquire a certain portion of the City Property in fee simple (“the Acquired Property”). The particular portion of the City Property to be conveyed to BCP in fee simple and the three (3) easement areas to be reserved to the City are shown and described on the drawing by First Order, LLC dated May 25, 2022 and last revised on November 9, 2022, and attached hereto and incorporated herein as **Exhibit 1** (the “**Acquisition Plan**”).

D. The portion of the City Property to be acquired consists of .0081 acres. BCP’s acquisition of this property will benefit the City by facilitating the development of the Improvement Plan and facilitating the development of the Improvement Plan and enhancing the experience of those utilizing the Cultural Trail.

E. In exchange for conveyance of the Acquired Property, BCP agrees to (i) pay the City the monetary consideration provided for herein; and (ii) the City shall reserve unto itself three (3) easements on the Acquired Property, all as more particularly set forth and described herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are made a part hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Incorporation of Recitals and Defined Terms.** BCP and the City agree that the foregoing Recitals are true, complete, and hereby incorporated by reference.

Monetary Consideration. BCP agrees to purchase and the City agrees to sell the fee simple the Acquired Property for the purchase price TEN DOLLARS (\$10.00) (the “**Monetary Consideration**”).

2. **Closing.** Closing on the transfer of the Acquired Property from the City to BCP (the “**Closing**”) shall occur within FIFTEEN (15) days immediately following satisfaction of the Closing Conditions (defined below). Attached hereto is the Parties’ agreed upon form of a

Special Warranty Deed (the “**Deed**”) for the conveyance of the Acquired Property, which contains special warranty and a covenant of further assurances and which also contains a reservation of rights entitling the City to access and maintain the three (3) easement areas as noted on Exhibit 1. The form of the Special Warranty Deed is attached hereto as **Exhibit 2** and incorporated herein. At Closing, the City shall deliver *inter alia* the final, executed Deed, and BCP shall deliver *inter alia* the Monetary Consideration. BCP shall be responsible for paying all settlement/closing fees, title search and title insurance costs, and all other costs and expenses related to or arising from Closing.

3. **Representations and Warranties of Seller.** Seller hereby makes the following representations to Buyer, all of which are made as of the Effective Date and shall be true and correct in all material respects on and as of the Closing Date.

3.1 **Enforceability: Authorization.** This Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto are, or will be when executed and delivered by Seller, the legal, valid and binding obligations of Seller and enforceable against Seller in accordance with its terms. Seller has obtained all consents necessary for, and possesses full authority and legal right to authorize Seller's entry into and performance of this Agreement, the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto and/or the transactions contemplated hereby or thereby. Other than this Agreement, there are no other oral or written agreements relating to the use, occupancy or possession of the Acquired Property that would prohibit, interfere or in any way restrict Buyer's use thereof.

3.2 **Ownership of the Property.** Seller is the fee simple record and beneficial owner of the Acquired Property. No person or entity has an option, right of first refusal or other similar right to acquire all or any portion of the Acquired Property. Seller has performed all obligations under and is not in default in complying with the terms and provisions of any covenants, conditions, restrictions, rights-of-way or easements applicable to the Acquired Property.

3.3 **No Conflicts.** Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Seller is a party.

3.4 **Third Party Consents.** All consents required from any governmental authority or third party in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby have been made or obtained or shall have been made or obtained by the Closing Date

3.5 Except as otherwise provided herein, Seller is making no warranties as to the condition of the Acquired Property is being sold "AS IS, WHERE IS AND WITH ALL FAULTS."

4 Closing Conditions.

A. **Subdivision.** A subdivision plat (the “**Subdivision Plat**”) for the Acquired Property to be transferred in fee simple, reserving the three (3) easement areas unto the City, shall have received final approval from all applicable State, County and City agencies and be in recordable form at or immediately prior to Closing. BCP shall be responsible for preparing and securing all approvals of the Subdivision Plat, and the City shall cooperate to the extent necessary to effect the Subdivision.

5 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transferees. This Agreement shall also be deemed to run with the land.

6 **Notice.** Notices and other communications required or permitted to be given hereunder shall be deemed to have been duly given if in writing and delivered by recognized overnight delivery service, or by fax (with a hard copy to be sent promptly thereafter by overnight delivery), as follows:

To BCP

BLACKTHORN CAPITAL PARTNERS LP
ATTN: P. Anthony Brown
9909 Deerfield Pond Drive
Great Falls, VA 22066

With a copy to:
Kaitlin R. Zarro, Esq.
Whiteford, Taylor & Preston, LLP
Seven Saint Paul Street, Suite 1400
Baltimore, Maryland 21201

To the City

Rodney A. Tissue, City Engineer
City of Hagerstown
1 East Franklin Street
Hagerstown, Maryland 21740

With a copy to:
Jason Morton
Salvatore & Morton, LLC
83 West Washington Street, Suite 100
Hagerstown, Maryland 21740

7 **Governing Law.** Regardless of its place of execution, this Agreement shall be governed by the laws of the State of Maryland as to interpretation, construction, and performance, without regard to its conflicts of laws principles.

8 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, there being no other terms, oral or written, except as herein expressed.

9 **Counterparts.** This Agreement (i) may be executed in two (2) or more counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument; (ii) may be executed by copies of physically signed documents exchanged via email attachment in PDF format or equivalent.

10 **Exhibits Incorporated.** Each Exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

11 **Amendments.** This Agreement may be amended, changed or modified only by written amendment executed by the parties hereto. No waiver of any provision of this Agreement shall be valid unless in writing signed by the party charged.

12 **Further Agreements.** BCP and the City shall at any time and from time to time after Closing, upon request of the other, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, conveyances and assurances as may reasonably be required for the better conveying, transferring, assuring and confirming the terms and conditions contemplated herein.

13 **Time of the Essence.** Time shall be of the essence of this Agreement.

14 **Survival.** The obligations, agreements and covenants contained herein or liabilities accrued under this Agreement which, by their terms, require their performance after the expiration or termination of this Agreement shall be enforceable after the Closing or other *de jure* termination of this Agreement, the parties specifically acknowledging that the Closing and the execution and recordation of deeds contemplated herein shall not terminate the obligations of the parties that are intended and by their terms survive the Closing.

15 **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.

16 **Waiver.** Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition in this Agreement.

17 **Assignment.** This Agreement may not be assigned by either party without the express written consent of each party. However, BCP shall have the right to assign this Agreement without the consent of the City to (1) any entity resulting from a merger or consolidation with BCP or any organization purchasing substantially all of BCP's assets, (2) any entity succeeding to substantially all the business and assets of BCP, (3) any entity controlling, controlled by or under common control with BCP, or (4) any entity resulting from the reorganization of BCP outside of bankruptcy organization.

18 **Headings.** Headings are intended only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the BCP and the City have executed this Agreement as of the date set forth above.

ATTEST

CITY OF HAGERSTOWN

_____ By: _____

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I HEREBY CERTIFY that on this ____ day of _____ 2023, before me, the Subscriber, Notary Public in and for the State and County aforesaid, personally appeared Emily N. Keller, Mayor, and she acknowledged the foregoing instrument to be her act and deed on behalf of the City of Hagerstown and he did further certify that she is duly authorized to make this acknowledgement on its behalf and that she is duly authorized to execute this Agreement on its behalf.

WITNESS my hand and Notarial Seal this ____ day of _____ 2023.

Notary Public

My commission expires:

[SIGNATURES AND NOTARY CONTINUED ON NEXT PAGE]

ATTEST

BCP Hagerstown, LP

Name:

Title:

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I HEREBY CERTIFY that on this _____ day of _____ 2023 before me, the Subscriber, Notary Public in and for the State and County aforesaid, personally appeared _____ and acknowledged the foregoing instrument to be his/her act and deed and he/she did further certify that he/she is duly authorized to execute this Agreement.

WITNESS my hand and Notarial Seal this _____ day of _____ 2023.

Notary Public

My commission expires:

Exhibit 1

(Drawing by First Order, LLC last revised November 9, 2022)

Exhibit 2
(Form of Special Warranty Deed)

PREPARED BY
WHITEFORD, TAYLOR & PRESTON LLP
7 SAINT PAUL STREET, SUITE 1400
BALTIMORE MD, 21201

TAX ID NO. 2203018180

AND WHEN RECORDED, MAIL TO:
BLACKTHORN CAPITAL PARTNERS LP
ATTN: P. Anthony Brown
9909 Deerfield Pond Drive
Great Falls, VA 22066

SPECIAL WARRANTY DEED

THIS DEED, made and entered into this ____ day of _____ 2022, by **CITY OF HAGERSTOWN**, a Maryland municipal corporation ("Grantor"), to **BCP HAGERSTOWN LP**, a Delaware limited partnership, having an address at 9909 Deerfield Pond Drive, Great Falls, VA 22066 ("Grantee").

EXPLANATORY STATEMENT

A. Grantee is the fee simple owner of an area of land consisting of 0.2305 acres, more or less described in that certain deed dated March 10, 2022 recorded among the land records of Washington County, Maryland at Liber 6950, page 374 (the "Parcel 1").

B. Grantor is the fee simple owner of an area of land consisting of 0.2091 acres, more or less described in that certain deed dated May 27, 2021 recorded among the land records of Washington County, Maryland at Liber 6640, page 169 (the "Parcel 2"). Parcel 1 and Parcel 2 are contiguous.

C. Grantor desires to adjust the divisional property lines between the parcels to reconfigure the parcels as described herein.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, Grantor does hereby grant, bargain and sell, convey, transfer and confirm, unto Grantee, its successors and assigns, fee simple absolute title to the parcel of land situate, lying and being in Washington County, State of Maryland, being more particularly described in Exhibit A attached hereto and by this reference made a part hereof. As a result, the new legal description of the property owned by Grantee is described in Exhibit B.

TOGETHER with all improvements thereupon and all and singular the tenements, hereditaments, rights-of-way, easements privileges, appurtenances, advantages and interests in leases to the same belonging or in any way appertaining; and

TOGETHER WITH all right, title and interest of Grantor in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of, abutting or adjoining the above-described real estate including all the buildings and improvements on the above-described land, erected, made or being; and all and every rights-of-way, alleys, ways, waters, easements, privileges, appurtenances, and advantages, to the same belonging or in anywise appertaining; and all the estate, title, right, interest and claim, either at law or in equity, or otherwise, of the Grantor of, in, to or out of the above-described land and premises, and all right, title and interest of the Grantor in and to the land lying in the bed of any street, road or highway (open or proposed) in front of, adjoining or servicing the above-described land, including condemnation awards or payments in lieu thereof as a result of a change of grade, alignment or access rights.

The City specifically reserves unto itself three (3) perpetual and permanent easements over all of the areas denoted on Exhibit C as "Easement 1 reserved to the City of Hagerstown" "Easement 2 reserved to the City of Hagerstown" and "Easement 3 reserved to the City" for access to the irrigation system, and electric and communication system including all trenches, conduits, cables, poles, guy wires & anchors, and other facilities over, under, and upon said property, for the purpose of constructing, inspecting, maintaining, repairing, altering, replacing, operating and/or removing said irrigation lines and utility lines, with the further right to install, maintain, operate and replace its facilities without responsibility for any damages caused thereby to trees, bushes and undergrowth, and other obstructions interfering with the safe and proper operation and maintenance thereof. These easements are for the benefit of the City and shall be covenant running with said lands and binding upon Grantee's heirs, successors and assigns.

TO HAVE AND TO HOLD the said described land and premises together with the building and improvements erected thereon and all rights, privileges, appurtenances, easements and advantages belonging and pertaining and subject to all applicable covenants, conditions, restrictions, limitations, rights of way, streets, alleys, reservations and easements of record, unto and to the use of Grantee, its successors and assigns, in fee simple absolute, forever.

AND said Grantor covenants that it will warrant specially the premises hereby granted and conveyed; that it has done no act to encumber the said land; and that it will execute such further assurances of the said land as may be requisite.

[Signatures Begin on Next Page]

IN WITNESS WHEREOF, Grantor has caused this Deed to be executed under seal as of the day and year first above written.

**CITY OF HAGERSTOWN,
A MARYLAND MUNICIPAL CORPORATION, A BODY
POLITIC AND POLITICAL SUBDIVISION OF THE
STATE OF MARYLAND**

_____(Seal)

Name:

Title: Authorized Person

COUNTY OF _____)

STATE OF _____)

Before Me, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date _____ personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Special Warranty Deed, who, being by me first duly sworn, did depose and state that he is an Authorized Person of **City of Hagerstown**, which entity is a party to the foregoing and annexed Instrument; that the consideration recited in the foregoing and annexed Special Warranty Deed is true and bona fide as set forth therein; and that he, being duly authorized so to do, executed said Special Warranty Deed as an Authorized Person of **City of Hagerstown**, and acknowledged the same as its free act and deed for the uses and purposes therein contained.

Witness my hand and official seal this ____ day of _____ 2023.

Notary Public

[Notarial Seal]

My Commission Expires: _____

ATTORNEY CERTIFICATION

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Name: Kaitlin R. Zarro, Esq.

EXHIBIT A
PROPERTY DESCRIPTION

Area Transferred to Parcel 1
Account ID 2203018180
City of Hagerstown
Washington County, State of Maryland

Tract 1

All that certain tract, parcel or piece of land situate in the City of Hagerstown, County of Washington and State of Maryland, being further bounded and described as follows:

Beginning at a point in a new line of subdivision, said point being the terminus of the 7th course of the lines to be established for Proposed Parcel 1, said course being shown as L17. Thence,

1. North 57°52'39" West a distance of 2.61 feet to a point. Thence,
2. North 32°01'50" East a distance of 24.50 feet to a point. Thence,
3. South 57°58'10" East a distance of 2.41 feet to a point. Thence,
4. North 32°01'50" East a distance of 17.50 feet to a point. Thence,
5. North 57°58'10" West a distance of 8.08 feet to a point. Thence,
6. North 32°01'50" East a distance of 6.00 feet to a point. Thence,
7. North 57°58'10" West a distance of 4.72 feet to a point. Thence,
8. North 31°54'40" East a distance of 23.34 feet to a point. Thence,
9. South 58°05'20" East a distance of 3.29 feet to a point. Thence,
10. Following a curve turning to the left, having a radius of 50.13 feet, an arc length of 15.34 feet, with a chord bearing and distance of South 09°59'37" West 15.28 feet to a point. Thence,
11. Following a curve turning to the right, having a radius of 29.87 feet, an arc length of 16.19 feet, with a chord bearing and distance of South 16°45'12" West 15.99 feet to a point. Thence,
12. South 32°17'17" West a distance of 41.76 feet to a point, said point being the point or place of beginning.

Containing 303 square feet or 0.0070 acres of land.

Tract 2

All that certain tract, parcel or piece of land situate in the City of Hagerstown, County of Washington and State of Maryland, being further bounded and described as follows:

Beginning at a point in a new line of subdivision, said point being the terminus of the 5th course of the lines to be established for Proposed Parcel 1, said course being shown as L15. Thence,

1. North 57°52'39" West a distance of 19.12 feet to a point. Thence,
2. North 32°03'07" East a distance of 2.50 feet to a point. Thence,
3. South 57°52'39" East a distance of 19.12 feet to a point. Thence,
4. South 32°04'08" West a distance of 2.50 feet to the point or place of beginning.

Containing 48 square feet or 0.0011 acres of land.

Jack W. Shoemaker

Maryland Professional Land Surveyor 21043, exp. 1/22/2024

Exhibit B
New legal description for Parcel 1 after transfer

Account ID 2203018180
City of Hagerstown
Washington County, State of Maryland

All that certain tract, parcel or piece of land situate in the City of Hagerstown, County of Washington and State of Maryland, being further bounded and described as follows:
Beginning at a point in the northerly right-of-way line of Library Alley (variable width, public right-of-way). Said point being a common corner to lands now or formerly of the City of Hagerstown. Thence, along said lands, the following twelve (12) courses and distances,

1. North $32^{\circ}16'10''$ East a distance of 20.35 feet to a point. Thence,
2. Following a curve turning to the right, having a radius of 37.54 feet, an arc length of 34.17 feet, with a chord bearing and distance of North $58^{\circ}20'30''$ East 33.00 feet to a point. Thence,
3. Following a curve turning to the left, having a radius of 4.42 feet, an arc length of 4.02 feet, with a chord bearing and distance of North $58^{\circ}19'30''$ East 3.88 feet to a point. Thence,
4. North $32^{\circ}22'27''$ East a distance of 3.38 feet to a point. Thence,
5. South $57^{\circ}52'39''$ East a distance of 19.12 feet to a point. Thence,
6. North $32^{\circ}04'08''$ East a distance of 6.00 feet to a point. Thence,
7. South $57^{\circ}52'39''$ East a distance of 2.61 feet to a point. Thence,
8. North $32^{\circ}17'17''$ East a distance of 41.76 feet to a point. Thence,
9. Following a curve turning to the left, having a radius of 29.87 feet, an arc length of 16.19 feet, with a chord bearing and distance of North $16^{\circ}45'12''$ East 15.99 feet to a point. Thence,
10. Following a curve turning to the right, having a radius of 50.13 feet, an arc length of 15.34 feet, with a chord bearing and distance of North $09^{\circ}59'37''$ East 15.28 feet to a point. Thence,
11. North $58^{\circ}05'20''$ West a distance of 3.29 feet to a point. Thence,
12. North $31^{\circ}54'40''$ East a distance of 98.81 feet to a point, said point being on the southerly right-of-way line of Washington Street (variable width, public right-of-way). Thence, along said right-of-way,

13. North $57^{\circ}41'32''$ West a distance of 45.24 feet to a point, said point being a common corner to Account ID 2203000826, lands now or formerly of Hager5, LLC. Thence, along said lands,
14. South $32^{\circ}16'44''$ West a distance of 233.38 feet to a point, said point being in the northerly right-of-way of Library Alley. Thence, along said right of way,
15. South $58^{\circ}38'09''$ East a distance of 21.41 feet to a point, said point being the point or place of beginning.

Containing 10,394 square feet or 0.2386 acres of land.

Jack W. Shoemaker

Maryland Professional Land Surveyor 21043, exp. 1/22/2024

Exhibit C
[Plat Attached]

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Review of Speed Camera Contract - *Chief Paul "Joey" Kifer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Proposed Community Development Grant (CDBG) Annual Action Plan Amendments: Reallocation of Alms House CDBG Funding and CDBG Emergency Repair Program Individual Grant Maximum - *Margi Joe, Community Development Manager*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

121322_WS_Reallocation_CDBG_Funds_Alms_House_to_Emergency_Repair_Grant_Program.pdf

Re-
Allocation
CDBG
Funding
Alms House



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

14 N. Potomac Street • Suite 200A • Hagerstown, MD 21740

Email: DCED@Hagerstownmd.org

Telephone: 301.739.8577, Ext. 111 • Website: www.hagerstownmd.org/DCED

To: Scott Nicewarner, City Administrator

From: Margi Joe, Community Development Manager

Date: December 7, 2022

RE: **Proposed CDBG Annual Action Plan Amendments:**

1. **Reallocation of Alms House CDBG Funding**
2. **CDBG Emergency Repair Program Individual Grant Maximum**

Staff will attend the December 13, 2022 Work Session to request approval of recommended amendments to the Community Development Block Grant (CDBG) FY2023 Annual Action Plan. The amendments are required for:

- Recommended reallocation of CDBG funding of \$362,642 from Alms House Rehabilitation Project to:
 - Existing activity – Single Family Emergency Repair Grant Program (\$60,000—total funded amount \$100,000)
 - Existing activity – Accessibility Ramps (\$50,000—total funded amount \$170,000)
 - Re-opened activity – Hagerstown Skate Park (\$30,000)
 - New project – Improvements to Triangle North of Park Circle (\$150,000)
 - New project – Alleyway Repaving (\$72,642)
- Increase in funding maximum for individual Emergency Repair Grant cases from \$10,000 to \$15,000

Staff seeks approval of the proposed amendments at the January 31, 2023 Regular Session after the required 30-day public comment period has passed.

Alms House Rehabilitation Project Background

On July 12, 2022, Mayor and City Council approved the FY2023 CDBG Annual Action Plan which included an allocation of \$362,642 for a project to rehabilitate the Alms House into a police substation. However, based on current market conditions and anticipated success of transferring the property to the private sector, Mayor and City Council on July 26, 2022 approved the return of the Alms House to the Competitive Negotiated Sale list.

As the CDBG funding will no longer be used for this project, it is recommended that the funding be reallocated to the above-mentioned existing and new projects.

Emergency Repair Grant Maximum Funding Background

In August 2021, Mayor and City Council approved a CDBG amendment to increase the maximum award for the Single Family Emergency Repair Grant from \$5,000 to \$10,000. Due to the continued escalating cost of typical emergency repair projects, staff recommends a further increase in the maximum award amount for eligible projects to \$15,000. A formal CDBG amendment is required for this change per the City's CDBG Citizen Participation requirements.

Next Steps

Amending the CDBG Action Plan involves routine processes typically handled by staff. The amendment for the proposed funding reallocation will also require Mayor and City Council approval as the activities are receiving reallocated funding in excess of \$25,000.

These recommended CDBG plan amendments will be scheduled for Mayor and City Council approval during the January 31, 2023 Regular Session after required public comment periods have passed. Staff will be available to address any questions or concerns on recommended actions described above.

Attached: Draft Motion

- c. Jill Thompson, Director of Community and Economic Development
Michelle Hepburn, Chief Financial Officer
Annaston Cree, Planning & Outreach Coordinator
Sue Kyler, Project & Program Coordinator

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

January 31, 2023

**TOPIC: Amendments to Community Development Block Grant (CDBG)
Annual Action Plan**

Charter Amendment	___
Code Amendment	___
Ordinance	___
Resolution	___
Other	<u>X</u>

MOTION: I hereby move for the Mayor and City Council to approve amendments to the FY23 Community Development Block Grant Annual Action Plan for the following actions:

- Recommended reallocation of \$362,642 CDBG funding from Alms House Rehabilitation Project as follows:
 - Reallocate \$60,000 to Single Family Emergency Repair Grant Program
 - Reallocate \$50,000 to Accessibility Ramps
 - Reallocate \$30,000 to Hagerstown Skate Park
 - Reallocate \$150,000 to Improvements to Triangle North of Park Circle
 - Reallocate \$72,642 to Alleyway Repaving
- Increase funding maximum for individual Emergency Repair Grant cases from \$10,000 to \$15,000

Details of the CDBG amendments are attached.

DATE OF INTRODUCTION:	01/31/2023
DATE OF PASSAGE:	01/31/2023
EFFECTIVE DATE:	01/31/2023

**CITY OF HAGERSTOWN, MARYLAND
AMENDMENT TO FY 2023 ANNUAL ACTION PLAN FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

REALLOCATION OF FUNDING TO EXISTING AND NEW CDBG ACTIVITIES:

In Fiscal Year 2023, the City of Hagerstown proposes to reprogram \$362,642 of CDBG funding to existing and new CDBG activities:

Proposed Reprogramming of CDBG Funds

- Allocate \$60,000 to an existing CDBG funded project—Residential Single-Family Emergency Repair Grant Program. Amendment will result in a total project budget of \$100,000 to undertake rehabilitation actions on single-family, owner-occupied homes for emergency repairs such as heat system repair/replacement and other emergency repair activities.
- Allocate \$50,000 to an existing CDBG funded project—Accessibility Ramps. Amendment will result in a total project budget of \$170,000 for the installation of ADA-accessible curb ramps at various intersections throughout the City of Hagerstown.
- Allocate \$30,000 to a previous CDBG funded project—Hagerstown Skate Park. Amendment will allow a total budget of \$30,000 for additional bench seating and turf seeding.
- Allocate \$150,000 to a new project—Improvements to Triangle North of Park Circle. Amendment will result in a total CDBG project budget of \$150,000 to install sidewalks, lighting, and foundations in this area.
- Allocate \$72,642 to a new project—Alleyway Paving. Amendment will result in a total budget of \$72,642 to repave deteriorated pavement in an alley site to be selected.

The available funding was originally allocated for the below project that will not occur during FY23 and will be cancelled in the FY23 CDBG Action Plan:

- \$362,642 for Alms House Rehabilitation (239 N. Locust St.) to create a police substation. Projected timeline for location, design, and construction of a new police substation has been shifted to future fiscal years.

The City will receive comments from interested individuals until January 17, 2023. Individuals interested in commenting may contact:

Department of Community and Economic Development
14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
301-739-8577 ext. 111
TDD 301-797-6617
E-mail at mjoe@hagerstownmd.org

**CITY OF HAGERSTOWN, MARYLAND
AMENDMENT TO FY2023 ANNUAL ACTION PLAN FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
CHANGE IN FUNDING MAXIMUM FOR EMERGENCY REPAIR GRANTS**

**FY2023 Residential Single Family Emergency Repairs – Change in Funding
Maximum for Emergency Repair Grant Beneficiaries**

The City of Hagerstown CDBG Action Plan for Fiscal Year 2023 includes funding for Single Family Emergency Repairs. Funding is used to undertake rehabilitation actions on single family, owner-occupied homes for emergency repairs such as heat system repair/replacement, roof repair/replacement, water heater repair/replacement, and other emergency repair activities. The funding maximum for individual Emergency Repair cases will increase from \$10,000 to \$15,000.

The City will receive comments from interested individuals until January 17, 2023. Individuals interested in commenting may contact:

Department of Community and Economic Development
14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
301-739-8577 ext. 111
TDD 301-797-6617
E-mail at mjoe@hagerstownmd.org

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Review of Lease - The Foundry Pop-Ups ~ *Doug Reaser, Business Development Specialist*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

121322_WS_Foundry.pdf

Description

Review Lease Foundry
Pop-Ups



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Scott Nicewarner, City Administrator
FROM: Doug Reaser, Business Development Specialist
DATE: December 7, 2022
RE: **Review of Lease – The Foundry Pop-Ups**

Staff will attend the December 13, 2022 Mayor & Council Work Session to review a request of The Foundry Pop Ups to amend their lease terms.

Background

The Foundry Pop-Ups currently leases approximately 1,400 square feet, at 6 N Potomac St (Elizabeth Hager Center).

- Lease began January 1, 2022. A temporary lease from November 17, 2021 – December 31, 2021 with no rent due as leasehold improvements were performed in early 2022.
- Current rent is \$30,000 a year which include tenant requested leasehold improvements to the space. This amount was paid by the State under the Project Restore program.
- The lease allows for an opt-in of an annual renewal under set rent amounts.
- Rent is set to adjust to \$20,300 annually or \$14.50/ft which was similar to the previous tenant (CVB) lease rate.

Request

The Foundry has requested rent relief to opt in for January for the next year of 50% of rent for 4 months or \$3,383.33. The request for relief is due to unknown operating conditions from January-March (when leasehold improvements occurred during this timeframe in 2022) and slower than expected retail draw to the downtown per the business.

Staff seek direction from Mayor and Council on The Foundry's request.

Attachments: 1/1/2022 Lease

c. Jill Thompson
Michelle Hepburn
Eric Deike

LEASE AGREEMENT

J.K.
2022
THIS LEASE AGREEMENT ("Agreement") entered into on 12th day of January, 2022, by and between THE CITY OF HAGERSTOWN, a Maryland Municipal Corporation, existing under and by virtue of the laws of the State of Maryland, hereinafter called "City" or "Landlord," and The Foundry Pop-Ups LLC, a limited liability company organized and existing under the laws of the State of Maryland, and authorized to do business in the State of Maryland, hereinafter called "Tenant".

WHEREAS, the City owns a certain property located in Hagerstown, Washington County, Maryland, known as 6 North Potomac Street, (the "Property"); and

WHEREAS, the City desires to Lease a portion of the aforesaid Property to the Tenant; and

WHEREAS, Tenant desires to enter into a lease of a portion of the Property pursuant to the terms hereof;

NOW THEREFORE, in consideration of the obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

SECTION 1 DEMISE OF PREMISES

Landlord, for and in consideration of the payment of the rent and performance of the covenants and agreements hereinafter mentioned, hereby leases to Tenant and tenant hereby leases from Landlord all of the following space located at 6 North Potomac Street, Hagerstown, Maryland, consisting of approximately 1,400 total square feet, more particularly identified on the highlighted portion of the floor plan attached **Exhibit 1** ("the Premises").

SECTION 2 TERM

The Premises described herein are leased by Landlord to Tenant for an initial term of one (1) year (12 months) beginning on the 1st day of January 1, 2022 and terminating on the 31st day of December, 2022 at and for rental as set forth in Section 3 – Rent. Upon the expiration of the term and/or any renewal thereof (collectively the "term"), the rights of the Parties shall be construed pursuant to Section 17 hereof. In no event shall the tenancy be extended or renewed absent an express written agreement between the Parties.

Thereafter, the Tenant is given and shall have the option to renew this Lease for four (4) additional one-year terms, so long as Tenant is in compliance with the terms of this Lease, and is utilizing the Premises described herein as contemplated hereunder.

In order to renew this Lease as outlined above Tenant must give Landlord notice in writing no later than ninety (90) days prior to the expiration of the initial term (or renewal term as the case may be) of its desire to renew pursuant to the terms and conditions contained in this Lease Agreement. In the event Tenant fails to give any such notice to the City, it shall be presumed that Tenant has elected to terminate this Lease.

SECTION 3

RENT

A. For the period of January 1, 2022 to December 31, 2022, the annual rental shall be Thirty Thousand and 00/100 Dollars (\$30,000.00).

B. For the period of January 1, 2023 to December 31, 2023, the annual rental shall be Twenty Thousand Three Hundred and 00/100 Dollars (\$20,300.00).

C. For each year thereafter, if any, Tenant's rent shall increase at the rate of 3% per year over the previous year's rent. Tenant shall pay said rent in equal monthly installments in advance on the first day of each month.

SECTION 4

USE FEES; UTILITIES

Tenant shall be responsible for paying for electricity, gas, heating, and all utilities except as provided herein. Tenant shall place the account for said utilities in its name and same shall be payable directly by Tenant to the applicable utility provider. Tenant shall be responsible for all trash removal services.

TENANT SHALL NOT BE RESPONSIBLE FOR OR PAY REAL ESTATE PROPERTY TAXES. TENANT SHALL NOT BE RESPONSIBLE FOR WATER/SEWER WATER FEES. Tenant shall be responsible for any other applicable taxes or fees.

SECTION 5

COMPLIANCE TO MAINTAIN PROPERTY

IN COMPLIANCE WITH INSURANCE

Tenant covenants that it will not do nor permit to be done, nor keep nor permit to be kept upon the Premises, anything which will contravene the policy or policies of insurance against loss by fire or other causes, or which will increase the rate of fire or other insurance on the Property beyond the current rate. Should any act of Tenant so increase the rate, then, in addition to the rent hereinabove provided for, Tenant shall be liable for such additional premium, which shall be payable when billed as additional rent, collectible in the same manner as the annual rent. Tenant covenants that under no circumstances will it keep or permit to be kept, do or permit to be done, in or about the Premises, anything of a character so hazardous as to render it difficult, impracticable, or impossible to secure such insurance in companies acceptable to Landlord. Tenant further covenants, immediately upon notice, to remove from the Premises and/or to desist

from any practice deemed by the insurance companies or the Fire Marshall as so affecting the insurance risk or otherwise presenting a hazard.

SECTION 6 **MAINTENANCE**

Tenant agrees to keep the interior of the Premises, including the fixtures, equipment and personalty and appurtenances thereto in good repair and will make all ordinary and replacement repairs as its expense. Tenant agrees to be responsible for all interior and exterior window cleaning. Tenant shall be responsible for snow removal and cleaning on front sidewalk as needed. Tenant shall maintain the Premises in a neat and clean condition and upon the expiration of the term of this Agreement surrender the entire premises in as good a state and condition as they were in at the commencement of the term, ordinary wear and tear excepted. If Tenant refuses or neglects to repair or replace the fixtures, equipment or personal property as required hereunder to the reasonable satisfaction of Landlord within a reasonable time following written demand to Tenant by Landlord, Landlord may make such repairs or replacements, and upon completion, Tenant shall pay Landlord's costs for making such repairs or replacements upon presentation of bills therefore, payable and collectible as additional rent.

Tenant shall be responsible and pay for all janitorial and cleaning services as may be required for the Premises. Tenant shall be responsible and pay for all pest/insect/rodent control services for the Premises.

Landlord agrees to keep and maintain in good order and repair the exterior, the roof and all structural parts of the Premises and the Property. Landlord shall maintain in good condition and repair the electrical, heating, cooling and plumbing systems which serve the Premises.

SECTION 7 **TERMINATION OF LEASE IN CASE OF TENANT'S EXPANSION**

If Tenant has the *bona fide* need for additional space, and if Tenant finds alternative premises consisting of 2,500 square feet or more, and enters into a written lease (or purchase agreement) for same within limits of the City of Hagerstown, the Tenant may terminate this Lease Agreement after the initial term of the Lease upon ninety (90) days' written notice to the Landlord. As a condition of this Section, Tenant must furnish to Landlord a true and accurate copy of the written lease or purchase agreement, as the case may be, at the time that Tenant provides notice.

SECTION 8 **ALTERATIONS**

Tenant further covenants that it will not make any alterations, additions, or changes of any kind to the Premises, without first securing the written consent of Landlord, after submission of the plans therefor to Landlord for review and prior approval. Any alterations, additions, or changes as Landlord shall permit in writing shall be made at Tenant's expense. This shall not be construed

to deny the Tenant the right to do usual and customary decorating of the Premises. Tenant agrees that all improvements to the Premises shall become the property of the Landlord at the time of installation.

On or before October 1, 2021, the alterations set forth below shall be performed and paid for as follows:

Landlord shall pay and install vinyl flooring; remove privacy wall; paint/patch; update electrical; and Landlord shall clean awning.

SECTION 9 **USE**

The demised Premises shall be used by the Tenant solely for the purpose of conducting a retail business and any related business activities incidental thereto. No other use may be made of the premises unless approved in writing by the Landlord.

Tenant shall at all times during the term hereof remain in good standing with the State of Maryland, maintain its trader's license, and all other applicable licenses and approvals current and valid. Failure to cure a violation of this provision within thirty (30) days of written notice to do so shall constitute an event of default hereunder.

Tenant's agents, servants, employees, invitees, or other persons upon the Premises under the control and direction of the Tenant shall not engage in any criminal activity upon the Premises. Tenant, its agents, servants and employees shall not engage in any act intended to facilitate criminal activity upon the Premises or permit the Premises to be used for any such criminal activity. Any violation of this warranty shall be deemed an event of default hereunder.

SECTION 10 **SIGNS**

Tenant shall be permitted to install the name of Tenant and/or its trade name, on any interior walls. The Tenant may not erect or place any signs on the exterior of the Premises or Property or which are visible from the exterior of the building unless same are in compliance with all applicable regulations and have been approved in writing and in advance by the Landlord. Said approval shall not be unreasonably withheld.

SECTION 11 **ASSIGNMENT AND SUBLEASE**

Tenant shall not assign this Lease nor sublet all or any portion of the Premises to any person or entity without prior written approval from Landlord. Said approval shall be in the sole and absolute discretion of the Landlord.

SECTION 12
INDEMNITY AND LIABILITY INSURANCE

Tenant shall save and hold harmless and indemnify Landlord, its agents, servants, employees, officers and representatives from any and all claims of whatsoever nature or kind arising directly or indirectly from Tenant's use of the Premises including any suits, demands, claims or fines of whatsoever nature or kind including personal injuries and property damage arising directly or indirectly under any circumstances by the exercise of the Tenant in the use of the premises.

Tenant agrees to maintain general liability, fire and casualty and property damage insurance with an insurance company acceptable to Landlord and to protect Landlord as an additional insured in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000 in the aggregate. The insurer must be approved or acceptable to the Landlord. Such policy shall cover the demised Premises only and shall name Landlord as an additional insured. Said policies shall provide for at least 30 days' notice to the Landlord before cancellation and an endorsement shall be delivered to Landlord. A certificate of insurance shall be furnished to Landlord upon the execution of this Lease, and annually thereafter.

SECTION 13
QUIET ENJOYMENT; SUBORDINATION TO MORTGAGES

Provided Tenant is not in default hereunder, Landlord agrees to permit Tenant quiet enjoyment of the Premises. Tenant agrees that this Lease is and shall be subordinate to any existing or future liens or encumbrances of the Premises either by Landlord or its successors or assigns.

SECTION 14
INSPECTION OF PREMISES

Tenant agrees that Landlord shall have the right to inspect the Premises at all reasonable times during business hours, and to place upon the Premises or Property, where Landlord shall choose, "For Sale" or "For Rent" signs at any time during the term of this agreement.

SECTION 15
FIRE DAMAGE/CONDEMNATION

In the event the Premises is damaged by fire, storm, the elements, act of God, unavoidable accident and/or the public enemy, to such an extent as to render it partially untenable, Landlord shall restore such portion of the Premises so injured or damaged as speedily as possible. The rent shall abate proportionately on such part of the Premises as may have been rendered untenable until such time as such part shall be fit for use, and after which time, the full amount of rent reserved in this Lease shall be payable as hereinabove set forth. If the Premises is injured or damaged by any of the aforesaid causes to such an extent as to render the same wholly untenable, then this Lease shall thereupon become null and void, and all liability of Tenant shall terminate upon payment of all rent and additional rent or other charges due and payable to the date of such happening.

Should the Premises or any part thereof be condemned, appropriated and/or required for public use, then this Lease Agreement at the option of Landlord, shall terminate upon the date when the Premises or any part thereof shall be taken. Rent shall be apportioned as of the date of such termination. Tenant shall not be entitled to any portion of a damage award.

In the event of partial or entire untenability or condemnation, Landlord shall not be responsible for relocation costs and/or loss of business or income to Tenant. The term untenable shall be defined as meaning the premises are unable to be used for a commercial business.

SECTION 16

DEFAULT OF TENANT; REMEDIES OF LANDLORD

In addition to, and not in contravention of any other provision hereof, it is further agreed and understood that if any default is made in the payment of the rental or any other provisions as herein agreed by the Tenant, then the relationship of Landlord and Tenant at the option of the Landlord shall wholly cease and terminate, and the Landlord, its agents or attorneys, shall have the absolute right to re-enter said premises and assume and take possession of the same and the said Tenant waives service of any Notice of Intention to Re-enter, Notice to Terminate Tenancy, or Notice to quit or Demand for Possession.

SECTION 17

TENANT HOLDING OVER

This agreement shall terminate automatically upon the expiration of the initial term or any validly exercised renewal thereof. However, if Tenant does not immediately surrender possession of the Premises upon the termination, and there is a holding over by Tenant, then and in said event, the tenancy of this lease shall be considered at will, and Landlord shall be entitled to retake possession of the Premises without any prior notice to Tenant. Tenant hereby waives Demand for Possession and Service of Notice to Re-enter and Notice of any kind in connection with Landlord's right to re-enter and take possession of the Premises upon expiration of the term. If, despite the intent of the Parties, a Court of competent jurisdiction shall hold that a periodic tenancy exists upon the expiration of the initial term or any renewal hereof, the Parties hereto agree that said periodic tenancy shall be month-to-month at 150% of the monthly rent applicable prior to the expiration of the initial term or any validly exercised renewal thereof.

SECTION 18

CONTINGENCY

It is recognized by and between the parties that it is necessary for the Landlord to pass a resolution approving the execution of this Lease and the provisions hereof. In the event that said resolution should not become effective for any reason, then in said event, this agreement is null and void of no effect. It is agreed that the necessary resolution required by the Landlord shall be introduced as expeditiously as possible.

SECTION 19

SMOKING

No smoking will be permitted on the Premises by the public or the guests, invitees, agents, servants or employees of Tenant. No candle, incense or open flame shall be permitted on the Premises.

SECTION 20 **NOTICES**

Any notice required or permitted by this Lease to be given by either party may be personally delivered or sent by certified mail, properly addressed and prepaid, to the addresses of the parties herein given, unless another address shall have been substituted for such address by notice in writing. The date of delivery, being taken as the date of the receipt of such notice.

City of Hagerstown: City Clerk
 City of Hagerstown
 City Hall
 1 E. Franklin Street
 Hagerstown, MD 21740

With a courtesy copy to: Jason Morton, Esquire
 Salvatore & Morton, LLC
 82 West Washington Street, Suite 100
 Hagerstown, Maryland 21740

Tenant: The Foundry Pop-Ups LLC
 6 North Potomac Street
 Hagerstown, Maryland 21740

Attn: Ms. Jennifer Mulledy Graybash
Managing Member

SECTION 21 **ADDITIONAL DOCUMENTS**

The parties agree to execute, acknowledge and deliver, any and all further documents and instruments that may be required or necessary to carry out and effectuate the purpose of this Agreement or any provisions contained herein.

SECTION 22 **PARTIAL INVALIDITY**

If any term, covenant or condition of this Agreement shall be deemed invalid or unenforceable, then the remainder of this Agreement shall not be affected and same shall remain in full force and effect.

SECTION 23
GOVERNING LAW

This Agreement shall be construed, interpreted and enforced according to the Laws of the State of Maryland, without regard to principles of conflicts of law. The parties hereto agree to the exclusive jurisdiction and venue of the State Courts of Maryland located in Washington County. THE PARTIES HEREBY WAIVE THE RIGHT TO TRIAL BY JURY.

SECTION 24
PERMITS

In the event that it becomes necessary for any special permits, licenses or anything that may be requisite for the Tenant to occupy and use the Premises for the purposes set forth herein or as hereinafter may be agreed upon, then in said event, Tenant shall be responsible for the application and payment of any such permit or license fee if required.

SECTION 25
SECURITY DEPOSIT

N/A

SECTION 26
PERSONAL GUARANTEE

The Tenant hereby acknowledges that the Landlord has agreed to enter into the Lease based in part on the assurances of and receipt of a personal guarantee from Jennifer Mulledy Graybash. The Personal Guarantee is the form attached hereto as **Exhibit 2** and is incorporated herein by reference as an integral and material requirement of this Lease Agreement.

SECTION 27
MISCELLANEOUS

The headings in the Agreement are solely for convenience and reference only and are not intended to define or limit the scope of any provisions of this Agreement, nor affect the interpretation thereof.

All references made, and nouns and pronouns used herein, shall be construed in the singular or plural, and in such gender as the sense and circumstances require.

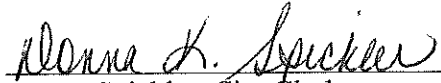
This Agreement shall inure to the benefit of and be binding upon the parties hereto, their grantees, successors and assigns, if applicable.

This Agreement is subject to and contingent on the passage of any ordinances or resolutions required as indicated, and upon the adoption of this Agreement by formal action of the Mayor and Council.

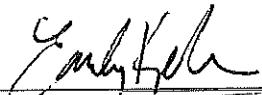
This Agreement contains the final and entire Agreement between the parties and they shall not be bound by any terms, conditions, statements, or representations, oral or written, not herein contained. Any subsequent amendment to the Agreement shall be valid only if executed in writing by the parties or their grantees, successors or assigns, if applicable.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date and year first above written.

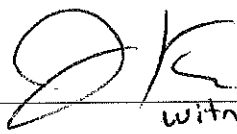
**WITNESS AND ATTEST
AS TO CORPORATE SEAL**


Donna Spickler, City Clerk

CITY OF HAGERSTOWN

By: 
Emily Keller, Mayor

ATTEST


witness
Member

**TENANT
THE FOUNDRY POP-UPS LLC**

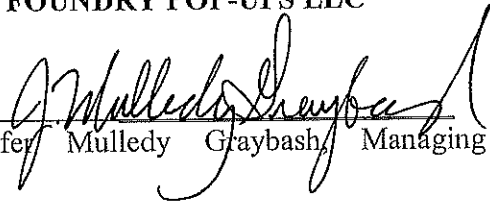
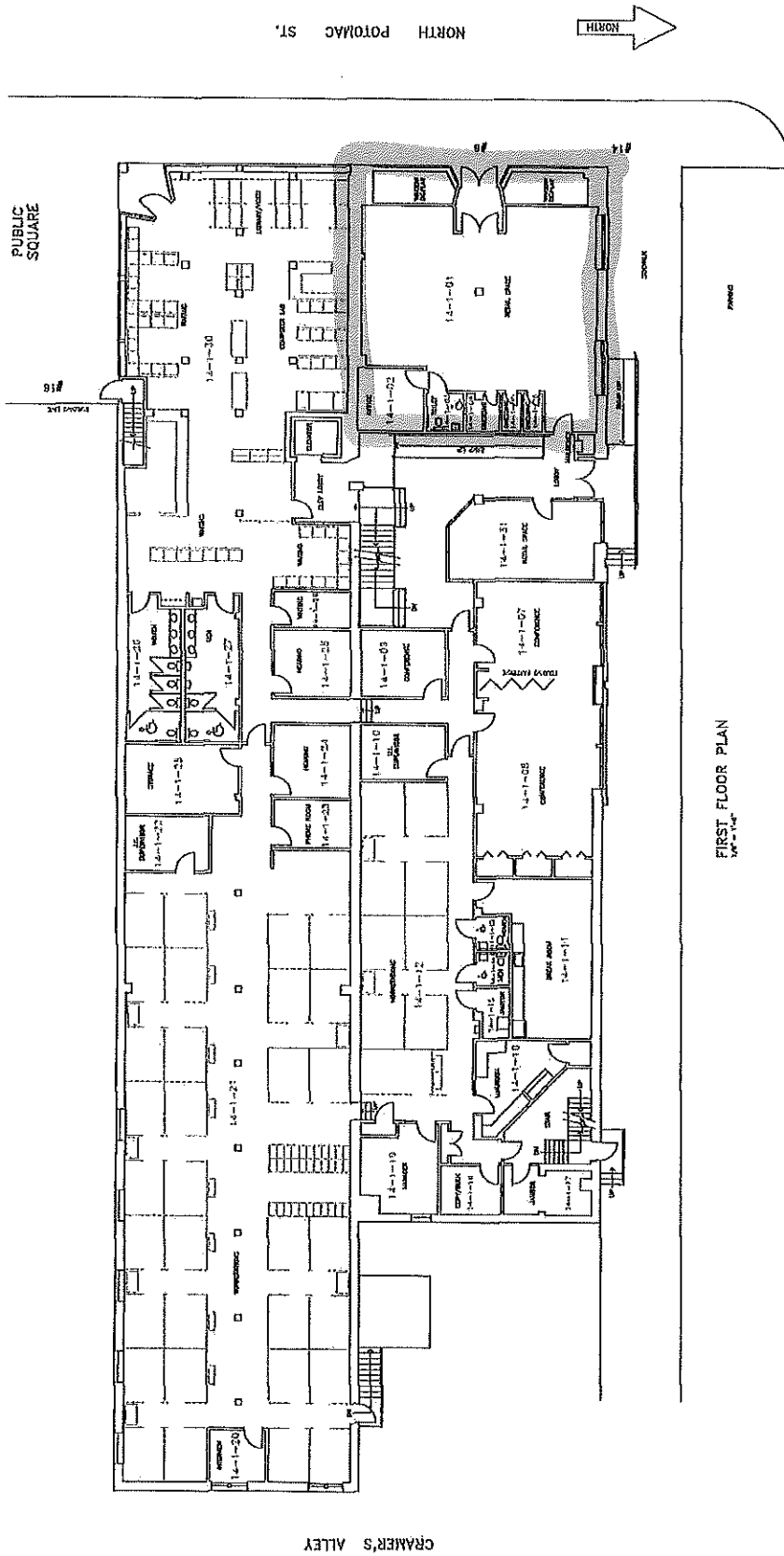
By: 
Jennifer Mulledy Graybash, Managing

Exhibit 1



FIRST FLOOR PLAN
1/4" = 1'-0"

RECEIVED BY: [illegible]
DATE: [illegible]
TIME: [illegible]
BY: [illegible]

GUARANTEE OF LEASE

As a material inducement of Landlord to execute the foregoing Lease Agreement (the "Lease") by and between The City of Hagerstown, a Maryland Municipal Corporation ("Landlord"), and The Foundry Pop-Ups LLC, a Maryland Limited Liability Company, authorized to do business in the State of Maryland ("Tenant"), for a portion of the real property located at 6 North Potomac Street, Hagerstown, Maryland, the undersigned Jennifer Mulledy Graybash ("Guarantor") hereby unconditionally and absolutely guarantees unto Landlord, its successors and assigns, the full, prompt and complete payment by Tenant of all Rent, additional rent, utility charges, fees, and any other sums due provided for in the Lease, and the prompt, faithful and complete performance and observance by Tenant of all of the terms, covenants and conditions of the Lease to be performed or observed by Tenant (the "Guarantee").

Guarantor hereby waives (i) notice of any and all defaults by Tenant, (ii) all demands for payment and/or performance, and (iii) all rights of indemnification, recourse or reimbursement for any liability under this Guarantee. Guarantor agrees that no delay by Landlord in enforcing any of its rights or remedies, nor any extension of time, nor any modification to the Lease, shall limit, affect or impair the liability of Guarantor, and Guarantor expressly consents to any such delays, extensions, and modifications with the same force and effect as though its consent had been given to each of them. The assignment of the Lease or subletting of all or any portion of the Premises shall not affect the Guarantor's liability hereunder, unless specifically released herefrom by Landlord.

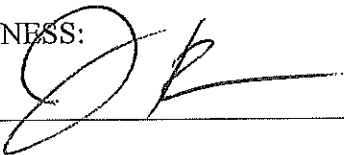
This Guarantee is independent of and in addition to any security or other remedies which Landlord may have for the performance or satisfaction of any of the Tenant's obligations under the Lease. Landlord shall not be required to resort to any other security or other remedies before proceeding upon this Guarantee. Landlord may proceed against Guarantor at any time it sees fit, independently of or concurrently with any other remedies.

Guarantor agrees to pay Landlord, on Landlord's request, any costs (including, but not limited to, reasonable attorney's fees of twenty percent (20%)) incurred by Landlord to enforce this Guarantee. In addition, Guarantor agrees to promptly acknowledge and confirm, in such form as Landlord may request from time to time, Guarantor's obligations under this Guarantee.

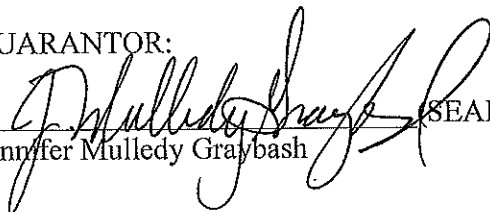
This Guarantee shall be binding upon the undersigned, her heirs and personal representatives, and shall inure to the benefit of Landlord, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Guarantee on the 12th day of January, ~~2021~~, 2022, intending it to be both legally binding and an instrument under seal. *JK*

WITNESS:



GUARANTOR:



Jennifer Mulledy Graybash (SEAL)

STATE OF Maryland, COUNTY OF Washington

I hereby certify that on January 12, ~~2021~~²⁰²², before me, a Notary Public of the above-referenced jurisdiction, personally appeared Jennifer Mulledy Graybash, known to me or satisfactorily proven to me to be the person whose name is subscribed to the within instrument, who acknowledged the he/she executed the same for the purposes contained herein.

WITNESS my hand and Notarial Seal.

My Commission Expires:

December 8, 2022

Donna Kay Spickler
Donna Kay Spickler Notary Public