

Mayor and Council Executive Session and Work Session October 10, 2023 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"

"You can't cross the sea merely by standing and staring at the water." Rabindranath Tagore

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

EXECUTIVE SESSION

- 3:30 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.

4:00 PM WORK SESSION

- 4:00 PM** 1. Heart of the Civil War Heritage Area Funding Request - *Elizabeth Shatto, Executive Director*
- 4:10 PM** 2. Post-Public Hearing Discussion: A-2023-03 – 13 & 17 Western Maryland Parkway - *Joanna Wu, Planner*
- 4:25 PM** 3. Post-Public Hearing Discussion: ZT-2021-01 – 4 Cypress Street - *Joanna Wu, Planner*
- 4:35 PM** 4. ZT-2023-02 Land Management Code Text Amendments - *Stephen Bockmiller, Development Review Planner/Zoning Administrator*
- 4:50 PM** 5. Restoration of Deputy Fire Chief Position - *Chief Steven Lohr*
- 5:05 PM** 6. City's Legislative Priorities for 2024 Maryland General Assembly - *Scott Nicewarner, City Administrator*
- 5:15 PM** 7. Trick or Treat - *Scott Nicewarner, City Administrator*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

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Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
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HAGERSTOWN, MARYLAND**

Topic:

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ATTACHMENTS:

File Name

October_10__2023_Executive_Session.pdf

Description

Executive Session Agenda



MAYOR AND CITY COUNCIL EXECUTIVE SESSION OCTOBER 10, 2023 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. 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; (#14)

**Purchase offer for City of Hagerstown owned property*

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

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

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: October 10, 2023

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:

Heart of the Civil War Heritage Area Funding Request - *Elizabeth Shatto, Executive Director*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Presentation_to_Hagerstown_Mayor____Council_9_19_2023.pdf

Civil_War_Pending_10.10.23.pdf

Civil_War_Awarded_10.10.23.pdf

Description

Heart of the Civil War
Heritage Area

Heart of the Civil War
Heritage Area Request

HCWHA - Past Awards

HEART OF THE
CIVIL WAR
HERITAGE AREA



Hagerstown Mayor and Council Workshop, September 19, 2023



Strategic Plan Listening Session in Hagerstown

Technical Assistance: Sharing Expertise, Resources, Toolkits and Leads to other Non-Heritage Area Funding Possibilities



NATIONAL ENDOWMENT
FOR THE HUMANITIES

Grants

News

Our Work

About

Infrastructure and Capacity Building Challenge Grants

Office of Challenge Programs

Grant Snapshot

Maximum award amount: \$1,000,000

Open to: Organizations

Expected output: Buildings; Equipment

Period of performance: Up to five years

Heritage Tourism Marketing

These Historic Sites and Charming Small Towns Make for an Incredible Road Trip from Philly

presented by: HEART OF THE CIVIL WAR HERITAGE AREA



The Schmankerl Stube, a Bavarian restaurant and long-time local favorite in Hagerstown, Maryland.

With the changing of the seasons, there's nothing better than taking a break from the city and getting out on the open road, especially when there are plenty of sites along our way that can capture our interest. One

TRENDING

- 1 Things to Do in Philadelphia the Weekend of June 24-25
- 2 Where to Watch Free Outdoor Movies in Philadelphia This Summer
- 3 27 Insider Tips and Things to Do Down the Shore
- 4 The Philadelphia Chinese Lantern Festival in Franklin Square
- 5 Wawa Welcome America: July 4th Festivities in Philadelphia



Hager House Visitor Center

CITY OF HAGERSTOWN

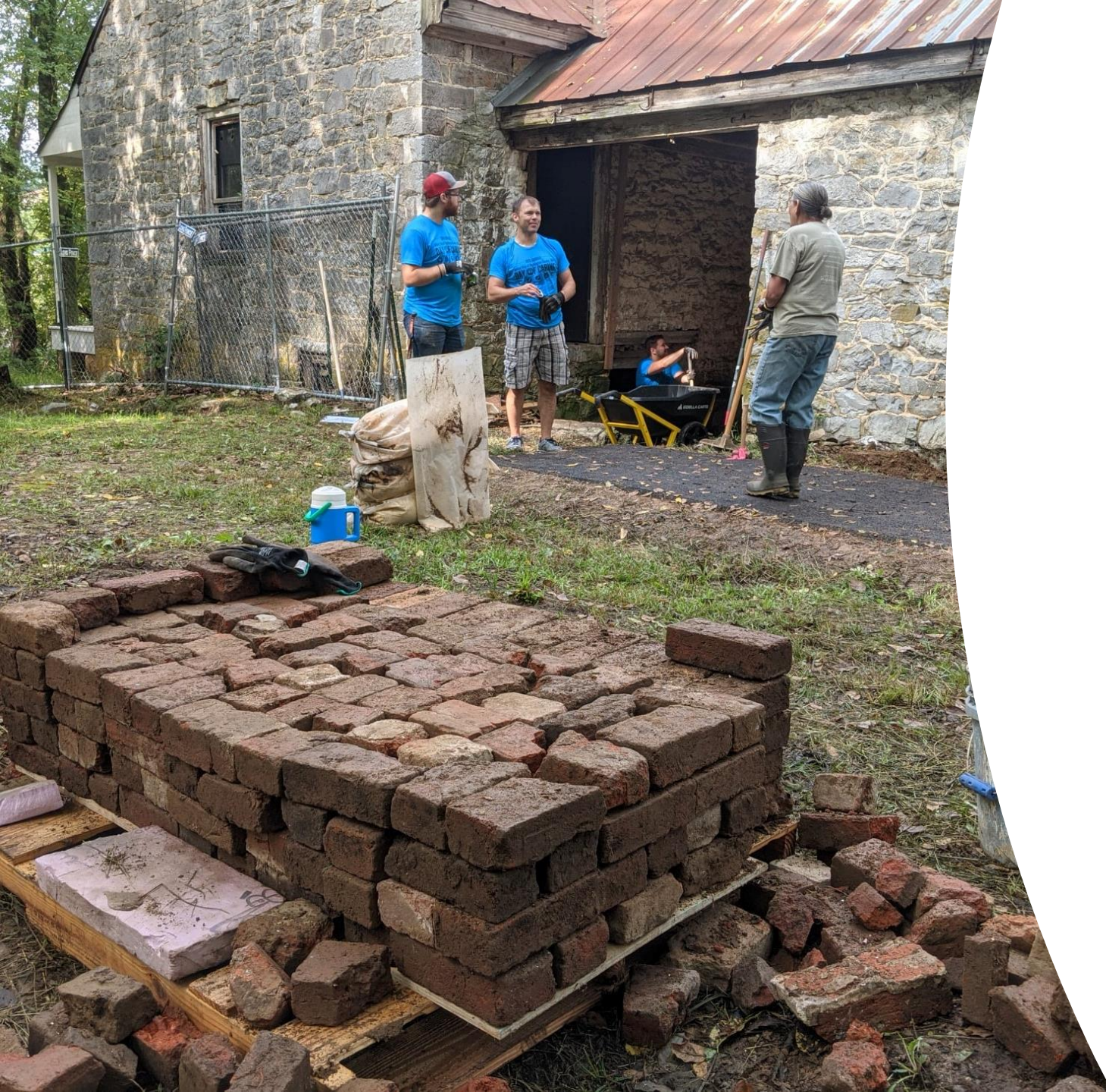


- Hager House
- \$25,000 FY22 grant to the City of Hagerstown
- Architectural, exhibit and panel design for the Visitor Center

DESIGN D.

DATE: 11/9/2022





Saylor House

- \$30,849 FY22 MHAA grant to the Washington County Historical Trust.

Restoration underway for a future 3-season center for historical and environmental education.



Joseph Holston, After Harriett, 2008, mixed media

Washington County
Museum of Fine Arts
HCWHA mini-grant:
\$5,000

Joseph Holston: Color in
Freedom, Journey along
the Underground Railroad

On view through
January 14, 2023



**Clara Barton Memorial groundbreaking
\$65,000 FY23 grant awarded**

**House on Jonathan
Street Documentary
film**

**\$25,000 awarded to
Hagerstown-
Washington County
CVB**

for

**Legal Rights &
Production Materials**





MAKES AN IMPACT

\$450.2 MILLION in economic impact

6,376 JOBS supported and sustained

\$60.3 MILLION in state and local tax revenue



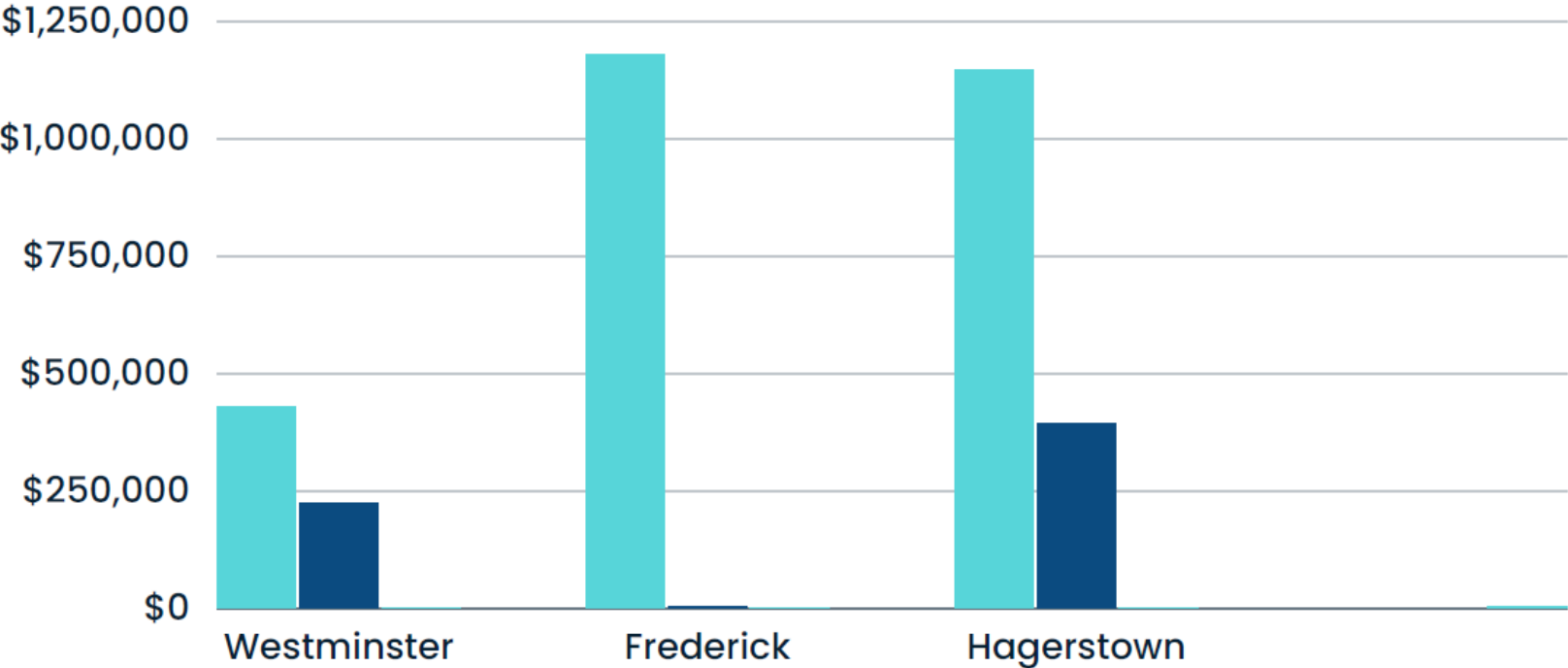
HERITAGE AREA PROJECT AND MINI-GRANTS FY2007-FY2024



Light blue bar = total Maryland Heitage Area project grant funds and mini-grants awarded to projects and/or entities headquartered in the municipal limits.

Dark blue bar =total grant funds awarded directly to units of municipal government.

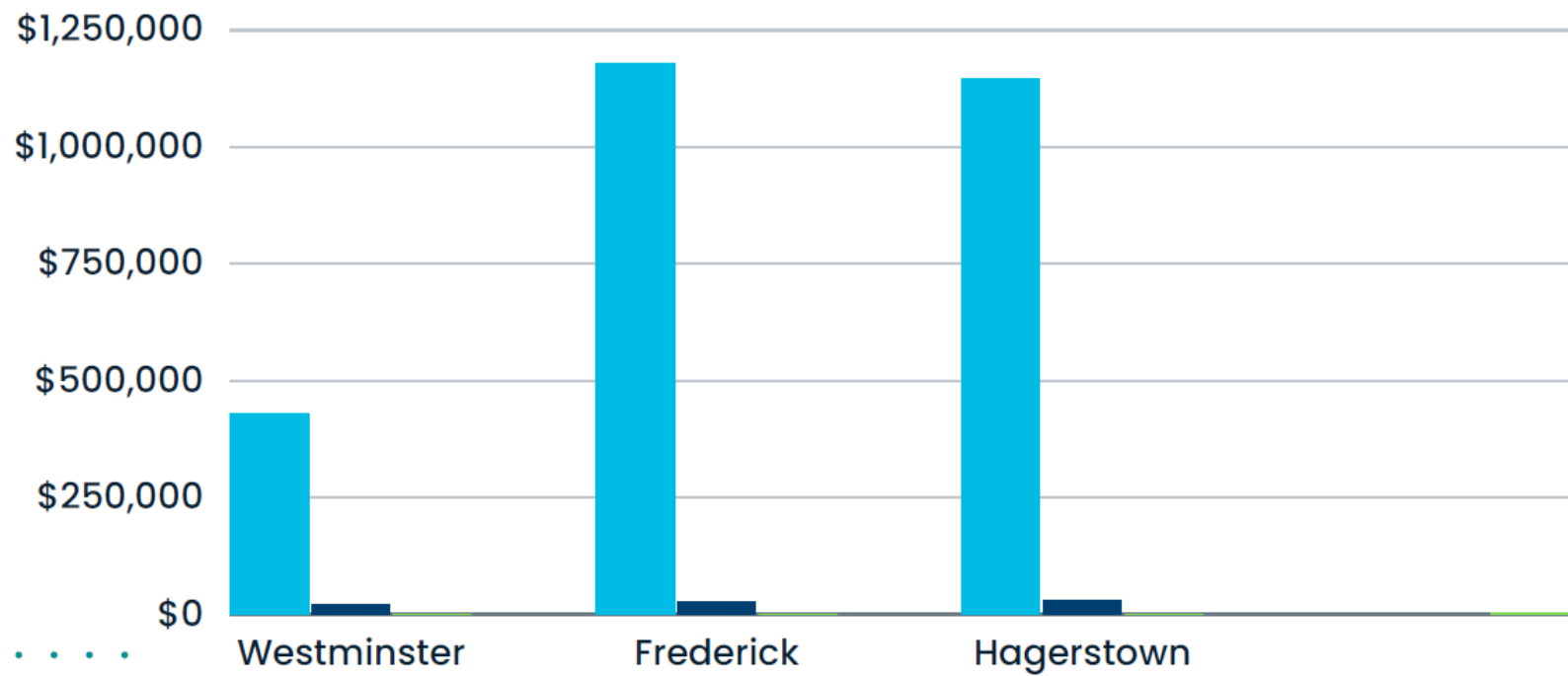
As of September 11, 2023, FY24 mini-grants have not yet been awarded.



GRANTS AWARDED/CITY SUPPORT OF HERITAGE AREA FY2007 - FY2023



Light blue = Heritage Area grant funds awarded to projects or entities in the city.
Dark blue = City appropriations/grants to support the Heart of the Civil War Heritage Area
FY24 not included as Hagerstown decision is pending
(Frederick & Westminster have granted \$7,500 each)



Elizabeth Scott Shatto
Executive Director
Heart of the Civil War Heritage Area
(240) 285-6727
liz@heartofthecivilwar.org

Rachel Nichols
Washington County Heritage Area Assistant
Heart of the Civil War Heritage Area
(240) 308-1740
Rachel@heartofthecivilwar.org

FY24 MHAA Mini-Grant Applications Currently Under Consideration		
Organization	Project Purpose	Grant Amount Requested
Washington County Historical Society	Enhanced management/care of Civil War collections	\$5,000.00
Washington County Historical Trust	Saylor House strategic interpretive plan, brochure, and wayside marker	\$3,400.00
Washington County Free Library	Cleaning and repair original 1859 map of Washington County	\$2,100.00

Hagerstown (within City Limits) MHAA Project and HCWHA Mini Grants					
Type	Project Title	Organization	Grant Amount	Fiscal Year	
Grant - noncapital	2021 World Canals Conference (in Hagerstown)*	C & O Canal Association	15,000	2021	
Grant - capital	Headquarters Engineering & Design**	C & O Canal NHP	\$100,000	2020	
Grant - noncapital	Education & Interpretive Plan, C&O Canal NHP**	C & O Canal NHP	\$50,000	2020	
Grant - noncapital	Plan Your Visit	C & O Canal Trust, Inc.	\$15,000.00	2014	
Grant - noncapital	Canal Towns: In the Shadow of the Civil War	C & O Canal Trust, Inc.	\$23,000.00	2012	
Grant - noncapital	Hager House Visitor Center	City of Hagerstown	\$25,000.00	2022	
Grant - capital	Hagerstown Cultural Trail Phase II Extension and Wayfinding	City of Hagerstown	\$100,000.00	2020	
Grant - noncapital	Improving Hager House Visitor Experience: Interpretive Imagery	City of Hagerstown	\$10,000.00	2020	
Grant - capital	Trail Design and Construction and Signage Design and Fabrication for City Park to Downtown Trail	City of Hagerstown	\$49,500.00	2016	
Grant - noncapital	Visitor Interpretation (Hagerstown)	City of Hagerstown	\$4,000.00	2009	

Grant - noncapital	Hagerstown Visitor Interpretation - 15 Exterior Exhibits	City of Hagerstown	\$5,000.00	2010	
Grant - capital	Hagerstown Streetscape Improvements-Sidewalk Café District	City of Hagerstown	\$100,000.00	2009	
Grant - capital	Streetscape Improvements	City of Hagerstown	\$55,000.00	2007	
Grant - noncapital	Visitor Assistance and Interpretation	City of Hagerstown Kathleen A. Maher kmaher@hagerstownmd.org	\$12,500.00	2007	
Grant - noncapital	Documentation/Feasibility Study Project of Doleman Collection of African-American Historical Artifacts	City of Hagerstown	\$15,000.00	2008	
Grant - noncapital	Newcomer House/ Visitor Center***	Hagerstown-Washington County Convention and Visitors Bureau	\$24,000.00	2011	
Grant - capital	Clara Barton Memorial	Community Foundation of Washington County	\$65,000.00	2023	
Grant - emergency operating (covid relief)	Operating Support	Maryland Theatre Association	\$10,000.00	2020	
Grant - capital	MD Theatre Expansion	Maryland Theatre Association	\$100,000.00	2020	
Grant - noncapital	The Seibert Collection	The Washington County Historical Society , Inc.	\$10,000.00	2021	
Grant - noncapital, ammended to become emergency operating (covid relief)	Operating Support plus some military exhibit work	THE WASHINGTON COUNTY HISTORICAL SOCIETY, INCORPORATED	\$25,018.00	2020	
Grant - capital	Vertical Platform Lift for Miller House Museum ADA Project	THE WASHINGTON COUNTY HISTORICAL SOCIETY, INCORPORATED	\$10,555.00	2018	

Grant - capital	Saylor House in Kiwanis Park, Hagerstown	Washington County Historical Trust	\$30,849.00	2022	
Grant - emergency operating (covid relief)	Operating Support	Washington County Museum of Fine Arts	\$10,000.00	2020	
Grant - capital	American Art from the Colonial Era to the Gilded Age and Smith-Mason-Thieblot Galleries Refurbishment	Washington County Museum of Fine Arts	\$50,850.00	2019	
Grant - noncapital	Valley of the Shadow Exhibit	Washington County Museum of Fine Arts	\$47,000.00	2012	
Grant - noncapital	Creating a C&O Canal "Plan Your Visit" Mobile App	C & O Canal Trust, Inc.	\$7,500.00	2016	
Grant - capital	Clara Barton Memorial	Community Foundation of Washington County	\$65,000.00	2023	
Grant - capital	Halfway African American Cemetery - public access/fencing	Friends of Halfway African American Cemetery	\$13,000.00	2024	
Grant - noncapital	House on Jonathan Street Docementaray (rights and promotional materials)	Hagerstown-Washington County Convention and Visitors Bureau	\$25,000.00	2024	
Grant - noncapital	Washington County Free Library	Preservation of rare newspapers on microfilm	\$17,424.00	2024	
Mini-Grant	Washington County Free Library	Civil War Journalism Exhibit	\$1,200.00	2007	
Mini-Grant	Hagerstown-Washington County CVB	On-line walking tour	\$1,250.00	2008	
Mini-Grant	Discovery Station	Civil War & C & O Canal Exhibit	\$1,886.00	2008	
Mini-Grant	Maryland Theatre	Frederick Douglas play	\$500.00	2008	

Mini-Grant	Digital Sign	Hagerstown-Washington County Convention and Visitors Bureau	\$1,000.00	2009	
Mini-Grant	Hagerstown in the Civil War book	City of Hagerstown	\$600.00	2010	
Mini-Grant	Circuit of the Summer Hills exhibit	Washington County Museum of Fine Arts	\$1,384.00	2010	
Mini-Grant	Interactive Civil War music exhibit	Discovery Station	\$2,500.00	2010	
Mini-Grant	Interpretive waysides	City of Hagerstown	\$1,100.00	2011	
Mini-Grant	Valley of the Shadow Catalogue Project	Washington County Museum of Fine Arts	\$1,760.00	2013	
Mini-Grant	For Us the Living - The Civil War Art of Mort Kunstler	Washington County Museum of Fine Arts	\$2,000.00	2014	
Mini-Grant	Hagerstown/Rose Hill Cemetery Walking Tour Map Update	Rose Hill Cemetery of Hagerstown, Inc.	\$1,347.00	2016	
Mini-Grant	Canal Towns Brochure	C & O Canal Trust, Inc.	\$928.00	2017	
Mini-Grant	Brochure on Hagerstown's WWI History	City of Hagerstown	\$500.00	2017	
Mini-Grant	Evaluating Interpretation at Miller House	Washington County Historical Society	\$1,100.00	2017	
Mini-Grant	Thomas Kennedy Center Website	Thomas Kennedy Center	\$1,500.00	2018	
Mini-Grant	Mount Aetna Cannon	City of Hagerstown	\$5,000.00	2019	
Mini-Grant	2021 World Canals Conference Website and Rental*	C&O Canal Association	\$2,800.00	2019	
Mini-Grant	Women's Suffrage Program	Washington County Historical Society	\$2,500.00	2019	
Mini-grant	Joshua Johnson Exhibition	Washington County Museum of Fine Arts	\$2,575.00	2020	

Mini-grant	Joshua Johnson Exhibition	Washington County Museum of Fine Arts	\$4,000.00	2021	
Mini-grant	Miller House Exhibition	Washington County Historical Society	\$3,023.50	2021	
Mini-grant	Jonathan Street Awareness project*	Preservation Maryland	\$2,500.00	2021	
Mini-grant	Color in Freedom, Joseph Holston: Journey Along the Underground Railroad	Washington County museum of Fine Arts	\$5,000.00	2022	
Mini-grant	Treasures of State: Maryland's Art Collection" exhibit and related educational programs.	Washington County Museum of Fine Arts	\$4,000.00	2023	
			\$1,142,149.50		
*This is not a Hagerstown-headquartered entity but the project is located in Hagerstown					
**Grants awarded when C&O Canal NHP HQ was located in the City of Hagerstown					
***Included because the grant applicant is headquartered in the City of Hagerstown					

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

Topic:

Post-Public Hearing Discussion: A-2023-03 – 13 & 17 Western Maryland Parkway - *Joanna Wu, Planner*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

mcc_packet_10-10.pdf

Description

A-2023-03 Memo and
Resolution



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: Joanna Wu, Planner

DATE: October 4, 2023

SUBJECT: Post-Public Hearing: A-2023-03 – 13 & 17 Western Maryland Parkway

Staff will be present at the October 10 work session to review input from the public hearing for this annexation.

Proposed Annexation

The two office buildings at 13 and 17 Western Maryland Parkway are subject to annexation under the terms and conditions of the pre-annexation agreement signed in 2005 (WS-2005-01). The properties became contiguous to the City through the annexation of 2 Western Maryland Parkway, which became effective July 1, 2023. The Mayor and City Council introduced the annexation resolution and approved the annexation plan for 13 and 17 Western Maryland Parkway at the regular meeting on July 25, 2023. As required by state law, there were two published notices advertising the public hearing the annexation plan was provided to the county, regional, and state planning agencies at least 30 days prior to the hearing. The State acknowledged that the requested zoning of I-MU does not substantially differ from the current ORT zoning; therefore, express approval of the zoning by the County is not required. The public hearing was held on September 26, 2023.

Follow-up to the Public Hearing

The record was left open for 10 days after the hearing. In that time frame, staff received no comments. No comments were presented at the hearing.

Next Steps

If the Mayor and City Council are ready to move forward to vote on the annexation resolution, it will be placed on the October 24 agenda. If the resolution is approved, the annexation becomes effective in 45 days on December 8, 2023.

Attachment: Annexation Resolution

RESOLUTION OF THE COUNCIL OF THE CITY OF HAGERSTOWN TO ENLARGE THE CORPORATE BOUNDARIES AND THEREBY AMEND THE CORPORATE BOUNDARIES AS CONTAINED IN SECTION 104 OF ARTICLE 1 OF THE CHARTER OF THE CITY OF HAGERSTOWN, MARYLAND AND AT THE SAME TIME ESTABLISH THE ZONING CLASSIFICATION OF THE AREA TO BE ANNEXED.

WHEREAS, the City of Hagerstown, pursuant to its rights and authority under the Local Government Article §4-403 of the Annotated Code of Maryland, may annex into the City additional lands in accordance with the requirements set forth therein; and

WHEREAS, pursuant to the Maryland Annotated Code, Local Government Article, §4-401 et seq., the City desires to enlarge the corporate boundaries of the City of Hagerstown, Maryland by adding or annexing thereto the within described areas which are immediately adjacent to and adjoining the present corporate boundaries thereof, pursuant to and as contained in a Pre-Annexation Agreement signed by the requisite number of persons as prescribed and set forth in Maryland Annotated Code, Local Government Article, §4-403(b)(2), as owners of realty contained within the area to be annexed, and same is incorporated herein by reference as if set forth into and made a part thereof. **See Exhibit A – Pre-Annexation Agreement**; and

WHEREAS, said annexation is identified on the Annexation Plat, shall be popularly known as “A-2023-03; Pre-Annexation Agreement WS-2005-01 Parkway Neurosciences and Western Maryland Parkway Rehabilitation Center LLC” for identification; and identification of the same is incorporated herein by reference as if set forth into and made a part hereof. **See Exhibit B – Annexation Plat**; and

WHEREAS, pursuant to the Maryland Annotated Code, Local Government Article § 4-403(b) the City may initiate annexation of land with the consent of at least twenty-five (25) percent of the registered voters residing within the area to be annexed and the consent of the owners of at least twenty-five (25) percent of the assessed valuation of the real property in the area to be annexed, and this property being subject to a recorded pre-annexation agreement such that all necessary consents are deemed to have been obtained at the time of entering into the pre-annexation agreement. **See Exhibit A – Pre-Annexation Agreement**; and

WHEREAS, this Resolution for Annexation meets all the requirements of the law, and, pursuant to the Maryland Annotated Code, Local Government Article, §4-406(-c-), the Annexation was referred to the appropriate State, Regional, and County Planning authorities; and

WHEREAS, in accordance with historic City practice in processing annexations, the issue of the proposed zoning of the area to be annexed to the corporate limits was referred to the Planning Commission for the City of Hagerstown, Maryland which said Commission for the City of Hagerstown has studied the proposed zoning of the tracts described herein in relation to the Comprehensive Plan, the Zoning Ordinance, and all other applicable ordinances, the needs of the City and County, and the needs of the particular neighborhood and vicinities of the areas, and have approved the same and that the rezoning for the said tract of land is proper and desirable under all of the circumstances and should be accomplished at this time.

Section 1. Now, therefore, be it resolved by the Mayor and City Council of the City of Hagerstown, Maryland that the boundaries of the City, pursuant to the Local Government Article, Subtitle 4-401 et seq., be and are hereby amended so as to annex and include within said City all that certain area of land, contiguous to the corporate limits of the City and being more particularly described by metes and bounds and as Annexation Area in **Exhibit B – Annexation Plat** attached hereto and made a part thereof.

Section 2. And be it further resolved by the Mayor and City Council, that the subject properties to be annexed shall have zoning classifications of I-MU (Industrial-Mixed Use) upon annexation as shown in **See Exhibit C- Zoning Exhibit**.

Section 3. And be it further resolved that the annexation of the said area be made subject to the terms and conditions as set forth in the Annexation Plan attached hereto as Exhibit D and made part hereof upon final agreement and passage; **See Exhibit D – Annexation Plan**.

Section 4. And be it further resolved that the conditions and circumstances applicable to the change in said corporate boundaries and to the residents and property within the area so annexed shall be subject to the provisions of the Charter of the City of

Hagerstown, the Code of the City of Hagerstown, and all acts, ordinances, resolutions and policies.

Section 5. And be it further resolved by the Mayor and Council, that this resolution shall take effect upon the expiration of forty-five (45) days following its final passage, subject however, to the right of referendum as contained in the Local Government Article of the Maryland Code, as amended.

WITNESS AND ATTEST AS TO
CORPORATE SEAL

BY ORDER OF THE MAYOR AND THE CITY
COUNCIL OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Tekesha Martinez
Mayor

Date Introduced:	July 25, 2023
Public Hearing Date:	September 26, 2023
Date of Passage:	October 24, 2023
Effective Date:	December 8, 2023

2631 0612

003

EXHIBIT ACLERK OF CIRCUIT COURT
WASHINGTON COUNTY

THIS AGREEMENT, MADE AND EXECUTED IN DUPLICATE, this 4th day of February, 2005 by and between Parkway Neuroscience and Rehabilitation Center, LLC of Washington (County), Maryland (State), party of the first part, hereinafter called "PROPERTY OWNER(S)" and the MAYOR AND CITY COUNCIL OF HAGERSTOWN, a municipal corporation of the State of Maryland, party of the second party, hereinafter called "CITY".

WITNESSETH:

WHEREAS, the City has established an annexation policy whereby annexation, except in certain situations, is a prerequisite to the City providing its services including water and sewerage services to serve any properties beyond the corporate boundaries of the City; and

WHEREAS, the property of the Property Owner(s) as hereinafter described (hereinafter "the Property") is subject to the annexation policy and no exception in said policy is applicable; and

WHEREAS, the Property is not now contiguous to the City; and

WHEREAS, the Property Owner(s) desire to have the Property annexed into the City at such time as the Property shall become contiguous to the City; and

WHEREAS, the Property Owner(s) agree that if and when the Property becomes contiguous to the City it is in the best interest of the Property Owner(s) and the Property that it become a part of the City of Hagerstown; and

WHEREAS, Property Owner has been fully informed and fully understands that he must request annexation and submit to annexation the Property in order to obtain the benefit of the said City services.

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) paid by the Property Owner to City, the mutual covenants and promises of the parties and other good and valuable consideration, receipt whereof is hereby acknowledged, and the further considerations of the City extending its water ~~sewer~~ (insert types of services being given) services to serve the property of Property Owner prior to annexation, it is hereby understood and agreed between the parties hereto as follows:

1. The Property which is the subject of this Agreement is the Property known as Western Maryland Parkway, Lot 3 (L.2472, F.131) (insert clarifying identification of the property, including lot # and if the property is part of a subdivision and liber/folio number) and more particularly described on the attached Exhibit A. (This must be a metes and bounds description if land is unsubdivided, if subdivided Exhibit A should be the subdivision plat in 8½ x 11 format.)
2. City shall, subject to the terms and conditions of this Agreement, extend the following City services, water ~~sewer~~, (insert types of services being given) to and for the benefit of the Property and the Property Owner herein.
3. The Property Owner shall pay all of the costs and expenses of the extension of these services to the Property adhering to all of the requirements of the City of Hagerstown for the extension of the services and the payment therefor.
4. Property Owner(s) agree to pay all connection, benefit and other charges in accordance with the rates then in effect according to Water Department and Water Pollution Control Department rules and regulations and applicable City Ordinances.

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

the terms of this Agreement or attempt to

Agreement, such failure shall be a breach of this Agreement and the City may, in addition to asserting any other legal right, seek to enforce the terms of this Agreement by a suit for specific performance.

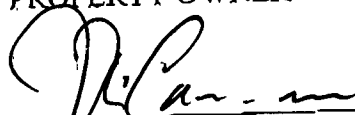
IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals, and the Mayor and City Council of Hagerstown has caused its name to be signed hereto by its Mayor, and its corporate seal to be hereunto affixed, duly attested by its City Clerk, all on the day and date first above written.

WITNESS:



Expires 1/25/06

PROPERTY OWNER

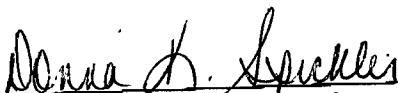


(SEAL)

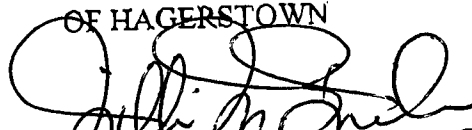
Typed Printed Name:

John K. Caruso, MD
General Manager

ATTEST:



Donna Spickler, City Clerk

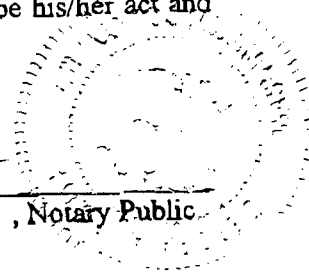
MAYOR AND CITY COUNCIL
OF HAGERSTOWN


William M. Breichner, Mayor

CLERK OF CIRCUIT COURT
WASHINGTON COUNTYSTATE OF Maryland)
COUNTY OF Washington) SS:

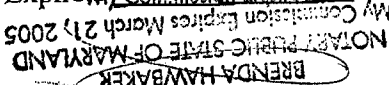
I hereby certify, that on this 4th day of February, 2005, before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the foregoing Agreement to be his/her act and deed.

WITNESS my hand and Notarial Seal.

My Commission Expires: 1-25-06
Deborah A. Smith, Notary PublicSTATE OF MARYLAND)
COUNTY OF WASHINGTON) SS:

I hereby certify, that on this 4 day of Feb, 2005, before me, a Notary Public in and for said County and State, personally appeared William M. Breichner, Mayor of the City of Hagerstown who acknowledged the foregoing Agreement to be the act and deed of said municipal corporation.

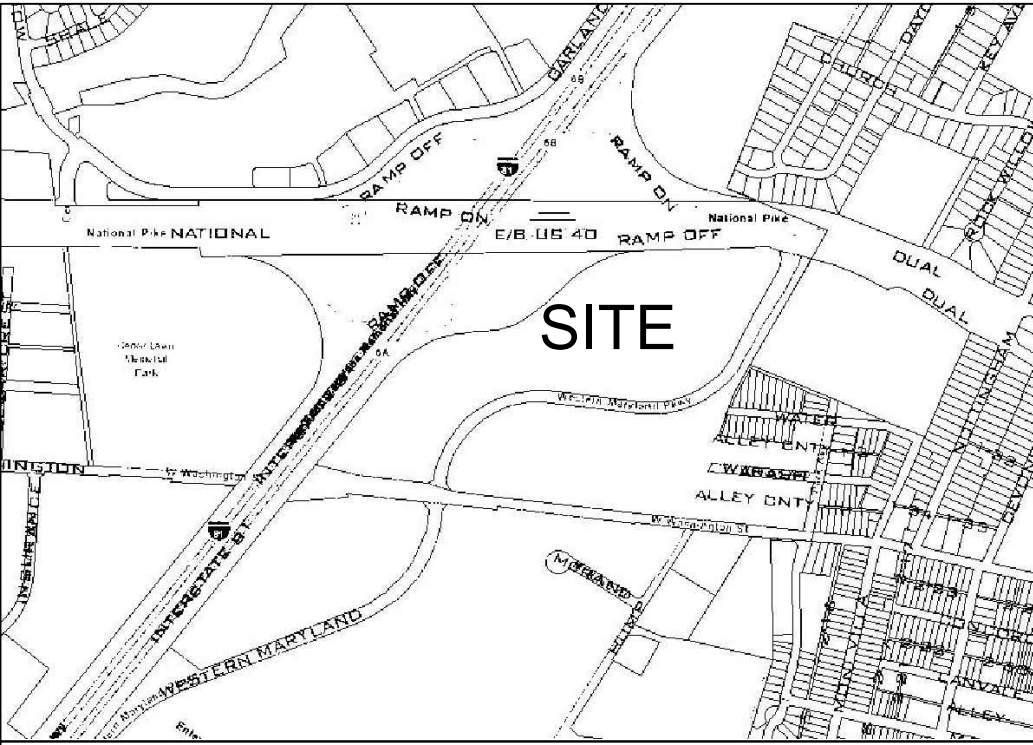
WITNESS my hand and Notarial Seal.

BRENDA HAWBAKER
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 21, 2005
Brenda Hawbaker, Notary Public


MAIL TO: City of Hagerstown Planning Department
One East Franklin Street, Room 400
Hagerstown, Maryland 21740-4987

January 3, 2005

H:\Planning\KATHY\Annexation Review Committee\Pre-Annexation Agreement.rtf

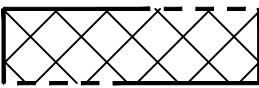
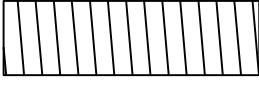
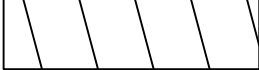


ACREAGE TABLE		
PARCEL 1, TR HAGERSTOWN MOB LLC	9.70 acres m/l	
PARCEL 2, WM-PKY ROW	0.89 acres m/l	
Total	10.59 acres m/l	

"I hereby certify that the intent of this annexation plat is to incorporate these parcels into the corporate limits of the City of Hagerstown. The legal owner of record is TR HAGERSTOWN MOB LLC. The undersigned adopted Resolution No. _____ on _____. TR HAGERSTOWN MOB LLC consented to the Annexation of its parcel, which consent is evidenced in **Exhibit A1** attached to the Resolution."

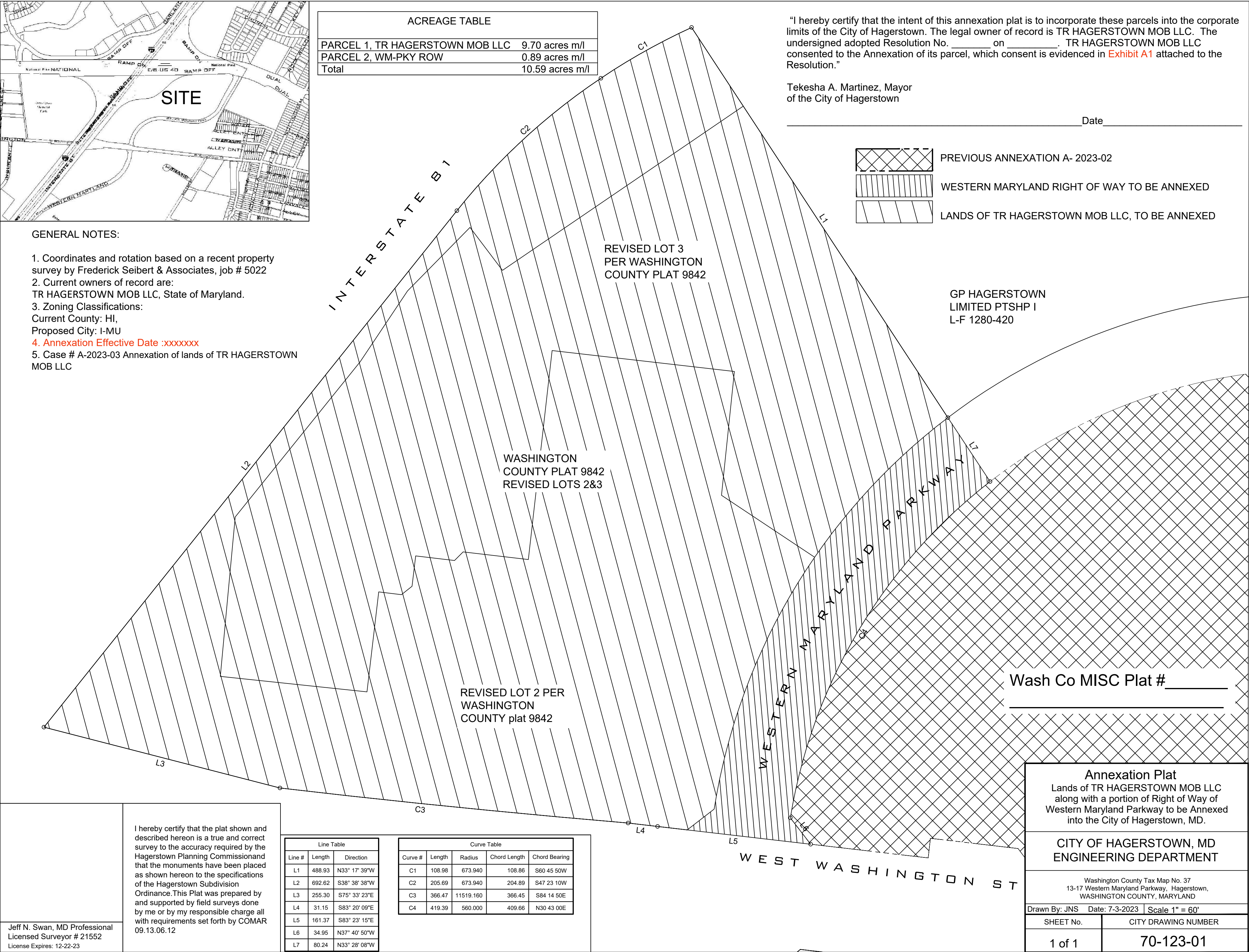
Tekesha A. Martinez, Mayor
of the City of Hagerstown

Date _____

-  PREVIOUS ANNEXATION A- 2023-02
-  WESTERN MARYLAND RIGHT OF WAY TO BE ANNEXED
-  LANDS OF TR HAGERSTOWN MOB LLC, TO BE ANNEXED

GENERAL NOTES:

- Coordinates and rotation based on a recent property survey by Frederick Seibert & Associates, job # 5022
- Current owners of record are:
TR HAGERSTOWN MOB LLC, State of Maryland.
- Zoning Classifications:
Current County: HI,
Proposed City: I-MU
- Annexation Effective Date :xxxxxxx
- Case # A-2023-03 Annexation of lands of TR HAGERSTOWN MOB LLC



Wash Co MISC Plat # _____

Annexation Plat
Lands of TR HAGERSTOWN MOB LLC
along with a portion of Right of Way of
Western Maryland Parkway to be Annexed
into the City of Hagerstown, MD.

**CITY OF HAGERSTOWN, MD
ENGINEERING DEPARTMENT**

Washington County Tax Map No. 37
13-17 Western Maryland Parkway, Hagerstown,
WASHINGTON COUNTY, MARYLAND

Drawn By: JNS Date: 7-3-2023 Scale 1" = 60'

SHEET No. CITY DRAWING NUMBER

1 of 1 70-123-01

I hereby certify that the plat shown and described hereon is a true and correct survey to the accuracy required by the Hagerstown Planning Commission and that the monuments have been placed as shown hereon to the specifications of the Hagerstown Subdivision Ordinance. This Plat was prepared by and supported by field surveys done by me or by my responsible charge all with requirements set forth by COMAR 09.13.06.12

Jeff N. Swan, MD Professional
Licensed Surveyor # 21552
License Expires: 12-22-23

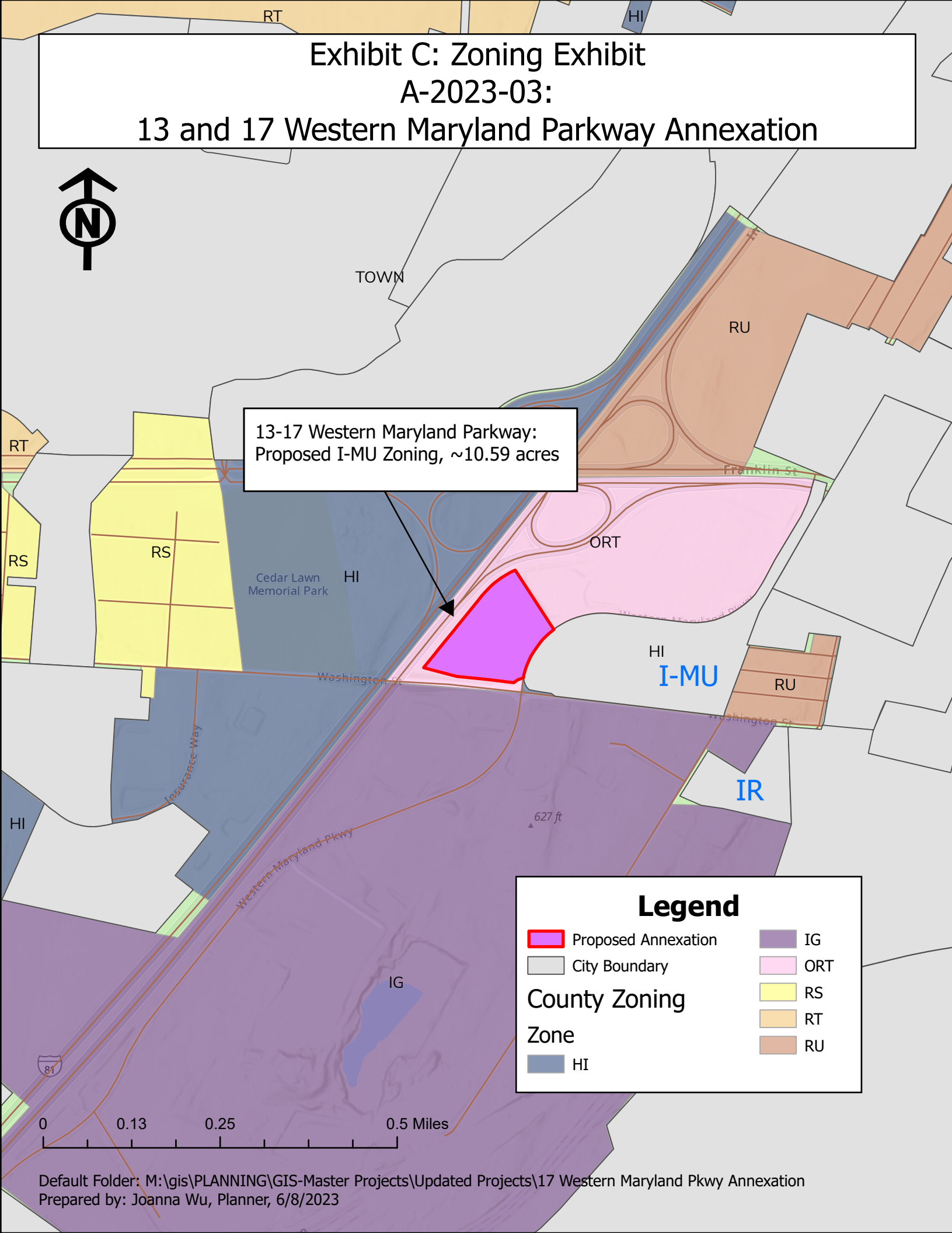
Line Table		
Line #	Length	Direction
L1	488.93	N33° 17' 39"W
L2	692.62	S38° 38' 38"W
L3	255.30	S75° 33' 23"E
L4	31.15	S83° 20' 09"E
L5	161.37	S83° 23' 15"E
L6	34.95	N37° 40' 50"W
L7	80.24	N33° 28' 08"W

Curve Table				
Curve #	Length	Radius	Chord Length	Chord Bearing
C1	108.98	673.940	108.86	S60 45 50W
C2	205.69	673.940	204.89	S47 23 10W
C3	366.47	11519.160	366.45	S84 14 50E
C4	419.39	560.000	409.66	N30 43 00E

Exhibit C: Zoning Exhibit A-2023-03: 13 and 17 Western Maryland Parkway Annexation



13-17 Western Maryland Parkway:
Proposed I-MU Zoning, ~10.59 acres



Legend

	Proposed Annexation		IG
	City Boundary		ORT
County Zoning			RS
Zone			RT
			RU
	HI		

0 0.13 0.25 0.5 Miles

City of Hagerstown, Maryland
Annexation Case No. A-2023-03

Property Owners: TR Hagerstown Mob LLC

Applicant: City of Hagerstown

Location of Property: 13 Western Maryland Parkway (Map 37, Grid 20, Parcel 869)
17 Western Maryland Parkway (Map 37, Grid 20, Parcel 864)

Annexation Plan

Pursuant to the Annotated Code of Maryland, Local Government Article, Section 4-415, herewith is a proposed outline for extension of services and public facilities into the areas proposed to be annexed.

It is also noted that any future amendments to the Annexation Plan may not be construed in any way as an amendment to the resolution, nor may they serve in any manner to cause a re-initiation of the annexation procedure then in process.

I. Land Use Patterns of Areas Proposed to be Annexed -

A. The area of annexation is approximately 10.59 acres.

B. The proposed zoning is I-MU (Industrial-Mixed Use) which is a continuation of the types of zoning classifications on the adjacent properties. The purpose of the I-MU District is to provide locations for light industrial parks, office parks, research and development facilities, high-tech communications and technology facilities, trucking and distribution facilities, and minor commercial uses that support job centers. The existing Washington County zoning classification for the property is Office, Research, and Technology (ORT). The property is designated as Business Employment on the City's Future Land Use Map.

The I-MU zoning classification proposed for this site is similar in scope and permits similar uses as the County's current zoning of ORT.

C. It is within the City's Medium Range Growth Area, an area intended for

new or expanded water and wastewater service based on development potential, as defined in the City's 2018 comprehensive plan, visionHagerstown 2035.

D. It is within the County's Urban Growth Boundary (UGA) and the State's designated Priority Funding Area.

II. Availability of Land Needed for Public Facilities -

- A. The uses of the annexation area are non-residential in nature and will have no additional impact on Washington County Board of Education facilities with respect to school capacity.
- B. The uses of the annexation area are non-residential in nature will have no additional impact to the Washington County Free Library as a result of the annexation.

III. Schedule and Method of Financing the Extension of Each Municipal Service Currently Performed within the City of Hagerstown into the Area Proposed to be Annexed.

- A. The area of annexation is currently served by the City for Wastewater. The property will continue to be served by City Wastewater. Sufficient capacity exists to serve the property. Wastewater rates will be reduced to reflect the change in property status to "inside city."
- B. The area of annexation is currently served by City Water. The property will continue to be served by City Water. Sufficient capacity exists to serve the property. Water rates will be reduced to reflect the change in property status to "inside city."
- C. The Electric Distribution System is external to the Hagerstown Light Division operating territory. Electrical service is provided by Potomac Edison.

The City of Hagerstown Light Division normally supplies street light services to local public streets and supplies the manpower and equipment to serve a new area once the developer builds the infrastructure. However, this area is solely illuminated by parking lot lights and no street lights exist in the area proposed to be annexed.

- D. No significant impact on emergency medical service delivery is expected.
- E. No change to current ownership or service is proposed. Any public roads constructed in the future within the area of annexation will be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer.
- F. Parks and recreation facility expansion are not proposed for this annexation.
- G. Police protection will be provided by the Hagerstown Police Department. Fire protection will be provided by the Hagerstown Fire Department.
- H. Maintenance (i.e. snow removal, mowing of right-of-ways, repairing) of Western Maryland Parkway is performed by State Highway Administration and West Washington Street is performed by the County. Any public roads constructed in the future within the area of annexation will be maintained by the City Public Works Department.
- I. All future persons within the area proposed to be annexed shall obtain or be entitled to existing benefits of the City of Hagerstown. They shall also be required to pay for all applicable utility services, charges, assessments, taxes, and other costs and expenses which are required of the residents of the City of Hagerstown, unless alternative arrangements are provided for the Annexation Resolution.

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

Topic:

Post-Public Hearing Discussion: ZT-2021-01 – 4 Cypress Street - *Joanna Wu, Planner*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MCC_packet_10-10.pdf

Description

Eklund LCD Amendment



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: Joanna Wu, Planner

DATE: October 4, 2023

SUBJECT: Post-Public Hearing: ZT-2021-01 – 4 Cypress Street

Mayor and Council Action Requested

The purpose of this meeting is to review public input from the hearing for the Local Conversion District Overlay Amendment at 4 Cypress Street.

Background

The property at 4 Cypress Street was approved as a Local Conversion District Overlay on May 24, 2022. The property was an existing mixed-use building on the corner of Cypress Street and Potomac Avenue, with office space and one dwelling unit. The prior application allowed the applicant to add a parking lot, retain one dwelling unit, and expand the permitted commercial uses for the office space.

Requested Amendment

The applicant is seeking to amend the application by constructing a 304 square foot addition to the front of the building. The addition would enclose the existing staircase, add hallway space, and a patient restroom. They would also amend the overlay by altering the use of the second floor to be used for administrative purposes and storage, rather than an apartment. All the requirements for a Local Conversion District would still be met with the proposed change.

Public Input from Public Review Meeting

At the Planning Commission Public Review Meeting, the Littles, 8 Cypress Street indicated they were not opposed to the overlay amendment, but they expressed concerns about the current parking issue in the neighboring alleyway behind 6 Cypress Street. They also want to see landscaping maintenance performed regularly at 6 Cypress Street.

Follow-up to the Public Hearing

The record was left open for 10 days after the Mayor and City Council hearing. Staff received no input during this time and no comments were presented at the hearing.

Next Steps

If the Mayor and City Council are ready to move forward to vote on the amendment, it will be placed on the October 24 agenda. The rezoning would be approved on November 21.

Attachment: LCD Application



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

LOCAL CONVERSION OVERLAY REZONING APPLICATION

Submittal Requirements:

- Original Application and 17 copies
- 18 copies of concept plan
- Filing fee (please consult [current fee schedule](#))

Case No. ZM - 2021-01

Office Use Only

Amendment

APPLICANT INFORMATION: Application may only be made by property owner or his/her authorized agent, or any other person(s) with a 50 % or more contractual or proprietary interest in the area covered by the zoning map amendment application.

Applicant Name: EVERETT EKLUND
Contact Person: SUSIE PLOTT Email: susie@potomacdentalcentre.com
Mailing Address: 1301 POTOMAC AVE. HAGERSTOWN, MD 21742
Telephone: 301-790-2007 Fax: 301-790-0981

OWNER INFORMATION: Owner's Affidavit must be submitted with application, if not the same as applicant.

Property Owner Name: EVERETT EKLUND
Contact Person: SUSIE PLOTT Email: susie@potomacdentalcentre.com
Mailing Address: 1301 POTOMAC AVE. HAGERSTOWN, MD 21742
Telephone: 301-790-2007 Fax: 301-790-0981

All correspondence will be sent to applicant. If the owner also wishes to receive a copy, please check box. ☐

PROJECT INFORMATION:

Project Location (Street Address): 4 CYPRESS ST. HAGERSTOWN, MD 21742
Tax Map Number: 301 PARCEL 0648 Year Built: 1920 (PER SDAT DATA)
Size of Property: 9904 SQUARE FEET Square Footage of Building: 3600 SQUARE FEET
Current Use of Building: STORAGE FOR DENTAL OFFICE
Proposed Use (Area and types of commercial uses, number of dwellings)

Are there existing or enclosed storefronts present? Approval of the Local Conversion Overlay District requires the reopening and reestablishing previously enclosed storefront windows. If construction is required, please provide concept drawings.

CONCEPT DRAWING INCLUDED.

Describe any proposed additions for outdoor dining and seating area, including fencing, pavers and furniture, and any proposed landscaping.

SITE PLAN INCLUDED.

Describe any other proposed improvements to the site intended to improve its condition and appearance for compatibility with the surrounding area.

REFER TO DRAWINGS.

CONCEPT PLAN:

A concept plan shall be submitted with this application. The concept plan should include the following:

- ☐ A scaled drawing showing the building footprint, the street, and all property lines
- ☐ Any proposed additions (*subject to limitations in City's Land Management Code, Art. 4, Section J.3.1.*)
- ☐ Existing off-street parking spaces, if any
- ☐ Any proposed fencing and landscaping
- ☐ Illustrations showing the general size, location, illumination, and nature of signage
- ☐ Any new site lighting proposed
- ☐ Front elevations of the building, including what the storefront will look like

STATEMENTS:

I understand that zoning approval by the Mayor & City Council or site plan approval by the Planning Commission does not constitute permission to construct. Appropriate permits must be obtained from City of Hagerstown Planning & Code Administration Department before construction may commence. I hereby attest or affirm that all the information provided in this application is correct and true to the best of my knowledge and understanding. Applicants that are not signed will not be accepted.

Applicant's Signature

Date

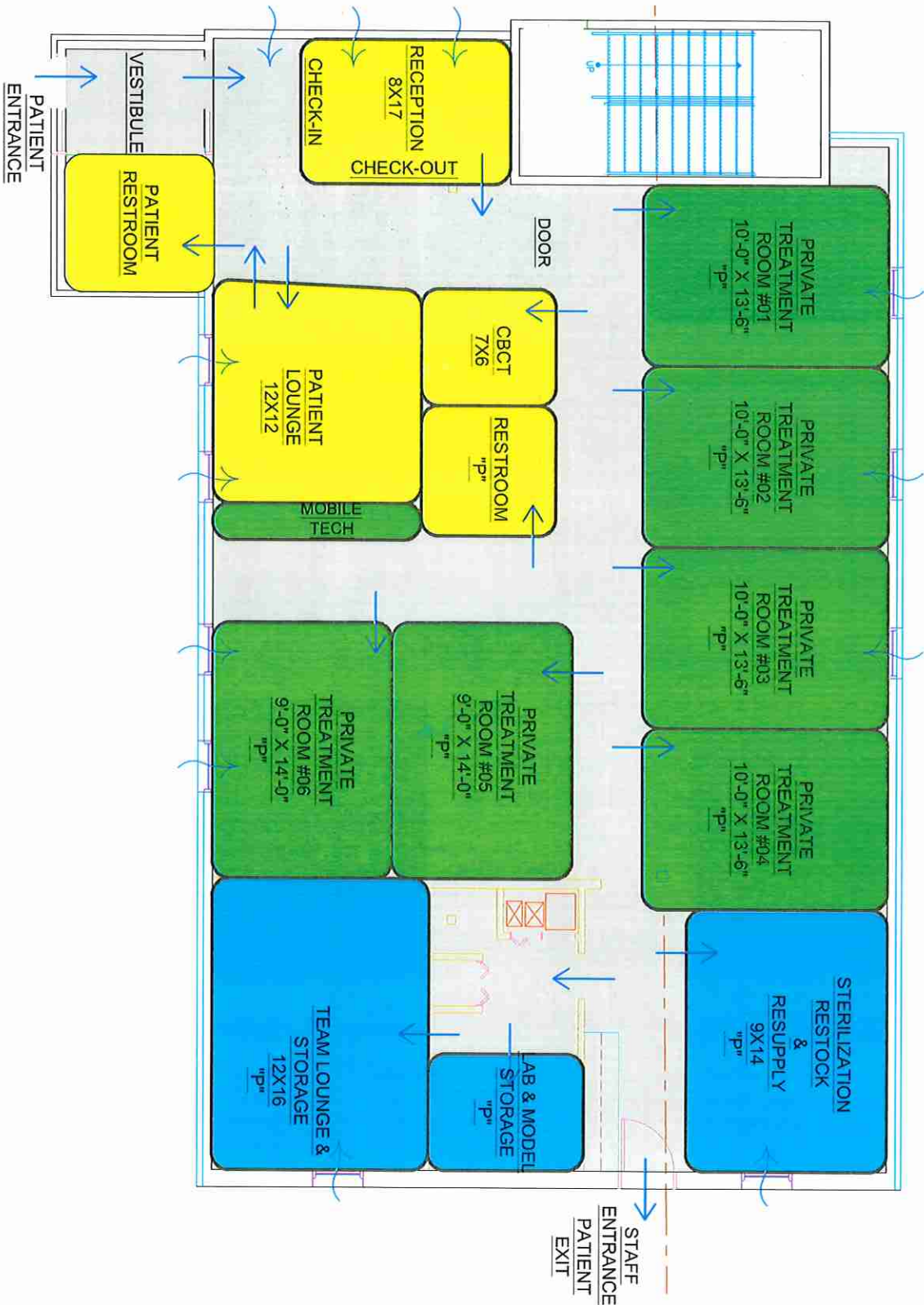
THE 17 ELEMENTS OF AN IDEAL FLOOR PLAN

1. Clearly identifiable patient entrance.
2. Staff entrance screened from view. Prevents entry confusion.
3. Immediate visual and physical access to the front desk upon office entry.
4. Waiting room seating removed from primary circulation of traffic flow.
5. Patient bathroom visible, i.e., but removed from waiting room seating.
6. The major proportion of the open front desk should be visible from the waiting area, without passing into the front desk space.
7. Conference room accessible by the door.
8. Conference room location minimally exposes patient to treatment room noises.
9. Treatment rooms isolated from the front desk.
10. Compact treatment area minimizing segregation of doctor and hygiene staff.
11. Doctor's office within proximity of treatment rooms, to keep a pulse on clinical activities.
12. Space for mobilization of technology.
13. Sterilization lab and re-supply areas in close physical proximity to treatment rooms.
14. Radiology areas do not block traffic flow when in use.
15. Staff lounge isolated from clinical and business zones.
16. Treatment room alignment does not channel noises from room to room.
17. Office expansion easily accommodated with minimal practice disruption.

- ↑ = DAYLIGHT
- P = PLUMBING REQUIRED
- = PRIVATE SPACE
- = TREATMENT SPACES
- = PUBLIC SPACES

DESIGN PROCESS

- Existing Site Information Review
- Site Engineering Phase
- Blocking Diagram Phase (Conceptual)
- Version 1
- Version 2
- Version 3
- Version 4
- Conceptual Plan Approved
- Floor Plan Phase
- Floor Plan 1
- Floor Plan 2
- Floor Plan 3 (Equipment & Sterilization Details)
- Floor Plan 4
- Building & Site Plan Coordination
- Equipment Selection Finalization
- Finalize Floor Plan
- Interior Design Phase
- Design Boards
- Interior Elevations
- Reflected Ceiling Plan & Lighting Selection
- Begin Engineering Phase
- Interior Finish Selection
- Structural & Exterior Design
- Exterior Elevations & Details
- Roof Design
- Engineering
- Plumbing Design
- Electrical Design
- Mechanical Design
- Coordinate with Equipment Suppliers
- Review & Finalize MEP Systems
- Final Civil Engineering Review & Coordination
- Final Review
- Permit Submission & Release for Bid
- Bid Review & Award



CONCEPTUAL LAYOUT ONLY

THIS DRAWING IS A CONCEPTUAL REPRESENTATION OF A POTENTIAL LAYOUT. WHILE WE DESIGN AS CAREFULLY AS POSSIBLE, THE ADJUSTMENTS MAY BE NEEDED WHEN CREATING A FLOOR PLAN. YOU WILL BE NOTIFIED BY THE ECONOMICS INC. DESIGN.

DR. EVERETT EKLUND

HAGERSTOWN, MD

2472 (INTERIOR) sq. ft.

412 sq.ft./Tx.m. @ 06 rooms

Project Number	DR. EKLUND - 801	PROPOSED BLOCKING DIAGRAM
Date	08/22/2022	
Drawn by	PJK	
Checked by	DJA	

V2

6/27/2023

RE: 4 CYPRESS STREET, HAGERSTOWN, MD 21742

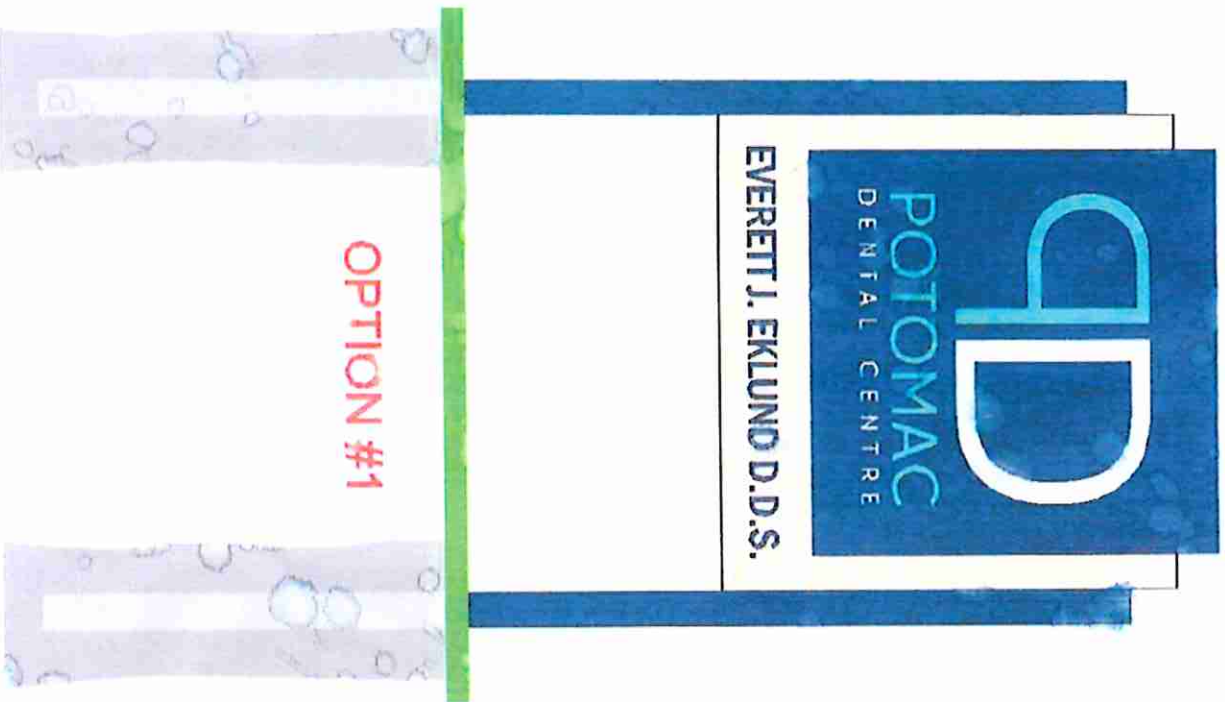
Local Conversion Overlay Rezoning

On May 26, 2022, we received approval of a local conversion overlay to permit the existing uses of first floor dental offices and second floor apartment, and install a parking lot.

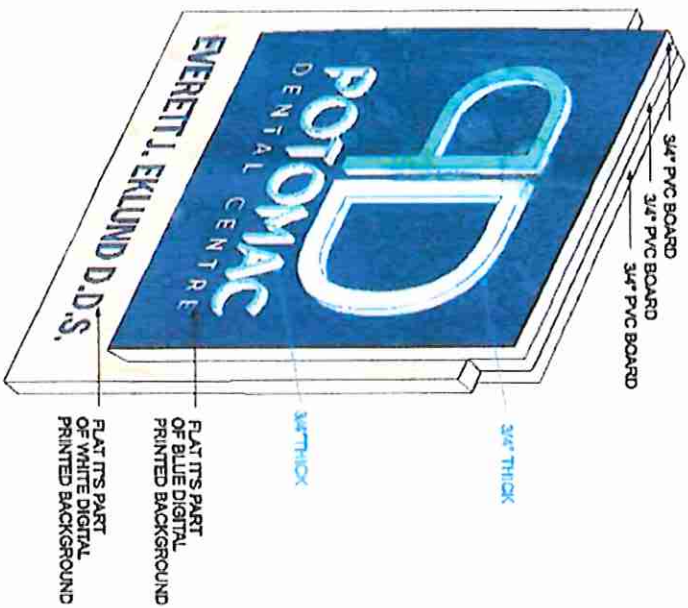
We are now requesting to construct an addition on the front of the building at 4 Cypress St, to enclose the existing staircase, add hallway space and a patient bathroom (recent text amendments were approved to permit this). This will not increase the number of employees or customer traffic to the location. The addition will be 304 sq ft, and would be located as close as 14 ft from the right of way of Cypress Street which is currently less than where the current exit stair is at 12 ft.

We would like the second floor to be used for administrative purposes and storage and no longer be used for an apartment.

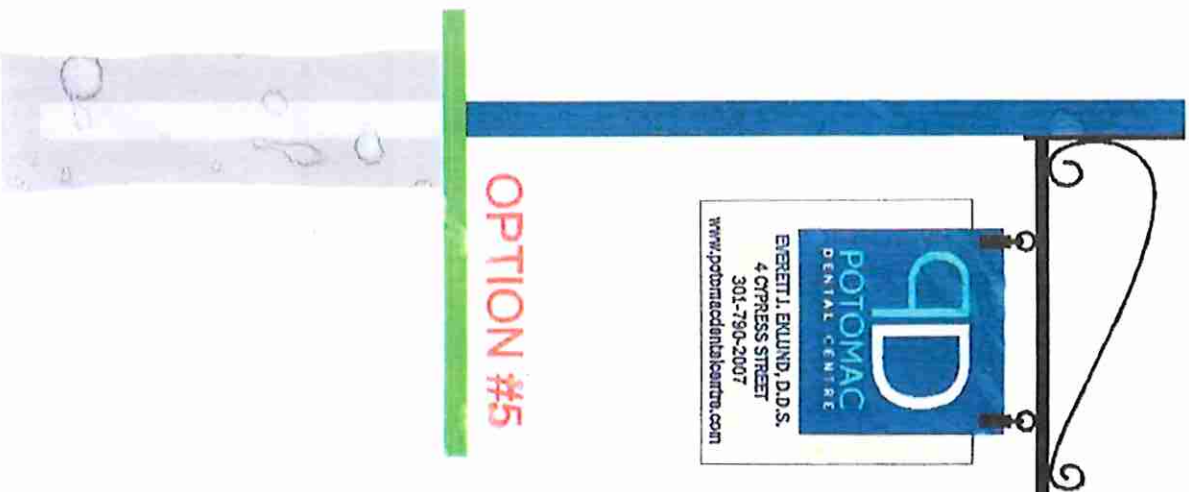




OPTION #1



OPTION #3



OPTION #5

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

Topic:

ZT-2023-02 Land Management Code Text Amendments - *Stephen Bockmiller, Development Review Planner/Zoning Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Memo_to_MCC_post_hearing.pdf

Description

2023 LMC Amendments
Second Package



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/Zoning Administrator

DATE: October 5, 2023

SUBJECT: ZT-2023-02 Land Management Code Text Amendments

Staff will be present at the October 10 work session to follow up with the Mayor and City Council on input received after the September 26 public hearing. Following this introduction is a summary of the content of the Mayor and Council packet provided for the hearing. Following the summary, the proposed specific changes are attached.

Input at Public Hearing

No public comment was received at the public hearing.

Input Received in the 10 Day Period Following the Hearing

To date we have received no additional input from the public.

Next Steps

If the Mayor and City Council are ready, we anticipate the introduction of an ordinance to amend the code on October 24 with approval on November 21.

Overview

This package of amendments contains 11 proposals to address issues or deficiencies in the Land Management Code. Staff received input from the public, and the potential developer of a property requesting an amendment to specific text in the Code to make our regulations regarding mixed use development more consistent with those found in other jurisdictions.

Issue 2023-05 – Open space requirements in Residential Zoning Districts and N-MU Housing Mix Percentages.

A developer is exploring the creation of a mixed-use development on a large, N-MU (Neighborhood Mixed-Use) zoned “greenfield tract”. In doing their site assessment, they concluded that the recently adopted housing type mix requirements are inconsistent with most other jurisdictions. Also, in reviewing this issue, staff determined that the open space requirements are below reasonable expectation for residential subdivisions. Although the City encourages mixed-use new development, the existing standards (as far as they relate to the development and use of open space in the N-MU District) are perhaps somewhat too accommodating. These proposed revisions address these concerns and improves the resulting open space in an N-MU development and other subdivisions in residential zoning districts.

Issue 2023-06 – Clarification of Exemption to Nonconformity for Certain Dwellings.

Earlier this year, an appellant attempted to argue use the provision exempting from expiration nonconforming use dwellings built as duplexes or townhouses for a building that was not built as a duplex or block of townhouses. Had this approach been successful, it would have opened a large hole in the regulation of nonconforming multiple dwelling units on undersized lots. The Ordinance was successfully defended, but the City Attorney and staff both felt that the language should be tightened up so that this provision cannot be misinterpreted in the future.

Issue 2023-07 – Minor Adjustments to the Motor Vehicle Sales Facility Design Standards.

The proposed amendment clarifies when this standard applies, including when additional uses are added to a site that has an existing vehicle sales facility.

Issue 2023-08 – Minor Adjustments To The Use of Vending Machines and ATMs As A Principal Permitted Use.

This proposal closes a loophole in the Ordinance that currently does not prohibit the installation of vending and ATM machines in front of dwellings and institutional uses in the mixed-use zoning districts (CC-MU, N-MU). They are not permitted in the residential districts. But there is nothing that prohibits them in the mixed-use districts on a property used for dwelling or institutional purposes which are not generally commercial in nature. This closes that loophole.

Issue 2023-09 – Parking Requirements For New Assembly Uses in Existing Buildings.

The Code only requires off-street parking for new construction, special exception uses, or for certain new uses in existing buildings. Recently, someone proposed to install a night club in an existing building in the CG Zoning District, where night clubs are a permitted use. However, the development of the site pre-dates site plan requirements, there are other uses on the property and the property has very little on-site parking. Parking demand generated by this night club would have had major impacts on the surrounding area if successful. This proposal adds requirements that when six certain assembly-type uses are proposed in certain districts, they must comply with ordinance requirements. This language is built into the description of the use, meaning that variance relief will not be available in these cases. It does not apply to the CC-MU District.

Issue 2023-10 – Revisions to Article 4, Section M (Nonconforming Uses) and Section U (Board of Zoning Appeals) Including Procedures and Review Standards.

Historically, the zoning ordinance has always had wording in it that blurs the difference between a special exception and a change of a nonconforming use. This change removes that confusion and clearly addresses these actions separately. Also, this change consolidates redundant language and removes wording regarding notice that exceeds State law requirements. With these changes, special exceptions, changes of nonconforming uses and enlargement of nonconforming uses each have their own separate criteria that tracks the way they have historically been addressed, but in a clearer manner.

Issue 2023-11 – Codify Parking Requirements for Child Day Care Centers.

Child day care centers are occasionally new-construction, subject to site plans. The ordinance does not currently enumerate parking requirements for this use, requiring staff to determine the required number of spaces based on guidance from the ITE Parking Manual. This proposal codifies a uniform requirement for a standard use, eliminating use of the back-up source.

Issue 2023-12 – Create Ability To Maintain a Pre-Approved Inventory of Street Names.

This proposal creates the authorization for staff to explore creation of pre-approved street names, which removes a complexity from the subdivision plan review process. The review process for developers proposing new street names involves multiple offices, including the County, and takes time. If some

names are pre-approved and reserved, it would simplify the process. It does not prohibit them from continuing to propose their own if they choose. It allows the City to select themes through which to create categories of names, so street names within a new subdivisions are coordinated on a theme.

Issue 2023-13 – Exempt Mostly Decorative Banners From Sign Regulations.

Some locations, mostly institutional uses on larger tracts, utilize decorative banners for beautification. This proposal removes these from sign requirements provided they are not used for obvious signage.

Issue 2023-14 – Permit CL District Uses in Commercial Spaces in Existing Mixed-Use Buildings in the RO District by Special Exception.

This proposal would permit CL district commercial uses in existing buildings that are built as mixed-use buildings in the RO District. This allows for a wider array of potential commercial uses that could potentially occupy storefronts in mixed-use buildings to serve the neighborhood.

Issue 2023-15 – Correction of An Overlooked Remnant of Past Amendments.

The term “preliminary plan” is no longer used in the Land Management Code, having been replaced with “development plan.” This proposal removes one last reference that was found hiding in the text.

Impact Analysis

When we forward text amendment packages, staff tries to provide analysis of the entire grouping regarding the net impact as far as administration of the code is concerned. Of these eleven proposals, there are:

- 5 – Clarifications or corrections of existing text.
- 3 – Relaxations of existing text or removes barriers/permit things previously not permitted.
- 2 – Strengthen existing text.
- 1 – Combination of strengthening and loosening text.

Attachment

Copy : Planning Staff
Jill Thompson, DCED Director
Doug Reaser, Economic Development Manager
Chris Siemerling, Economic Dev. Specialist
Ann Rotz, City Attorney
Jason Morton, City Attorney

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***Proposed Land Management Code Amendments Heard at
Planning Commission Public Review Meeting of July 26, 2023***

***Endorsed by the Planning Commission and Forwarded
To the Mayor and City Council on August 9, 2023***

***Mayor and City Council Public Hearing
September 26, 2023***

	<i>Proposal:</i>	<i>Description:</i>
1.	2023-05	<i>Open space requirements and N-MU Housing Mix Percentages.</i>
2.	2023-06	<i>Clarification of exemption to nonconformity for certain dwellings.</i>
3.	2023-07	<i>Minor adjustment to the motor vehicle sales facility design standards.</i>
4.	2023-08	<i>Minor adjustments to the use of vending machines and ATMs as a principal permitted use.</i>
5.	2023-09	<i>Adding parking requirements for new assembly uses in existing buildings.</i>
6.	2023-10	<i>Revisions to Article 4, Section M (Nonconforming Uses) and Section U (Board of Zoning Appeals) Procedures and review standards.</i>
7.	2023-11	<i>Codify parking requirements for child day care centers.</i>
8.	2023-12	<i>Create ability to maintain a pre-approved inventory of future street names.</i>
9.	2023-13	<i>Exempt decorative banners from sign regulations.</i>
10.	2023-14	<i>Permit CL District uses in commercial spaces in existing mixed-use buildings in the RO District by special exception.</i>
11.	2023-15	<i>Correction to a reference to an obsolete term (preliminary plan)</i>

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LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-05	Is this a new issue or one previously discussed?	Discussed
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: Adjustments to the zoning ordinance and subdivision and land development ordinance to provide more direction on design and density expectations for new development within the N-MU zoning district and to require open space in new residential developments of a certain size in N-MU, RMOD, RMED, RH, and RO if a publicly accessible park is not located within a ¼ mile.		
Justification: Implementation of the policies of the Comprehensive Plan, and clarification of the expectation of the ordinances. Among others, see Action 7-5.		

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

Article 4, Zoning

To clarify expectations for density and mixing of dwelling unit types in new developments in the N-MU zoning district and to adjust the percentage of dwelling units that may be dedicated to multi-family units in N-MU developments based on analysis of other mixed-use developments in Hagerstown and other Maryland jurisdictions.

Section E, Mixed-Use Zoning Districts

6. Residential Uses

c. Densities **and Mixing of Dwelling Types**

Residential densities in the mixed-use districts will vary based on the planning process, but it is **the comprehensive plan** 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~~ **16** 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 May 1, _____, 2023, and that tract, tracts or part of a tract is five acres in area or more, no sketch plan shall be approved by the Planning Commission for any development that shall be entirely of a single housing type. **If the total tract or tracts with N-MU zoning is less than 50 acres, at least two dwelling types are required. If the total tract or tracts with N-MU zoning is 50 acres or more, at least three dwelling types are required.** Any sketch plan for such development shall not permit more than ~~35~~ **50** 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~~ **If a** development dedicated to **includes** mixed use structures including **that contain** dwellings and commercial/institutional uses shall not be included in the calculation for the purpose of determining the number ~~percentage~~ of multi-family units ~~and townhouses may be permitted~~ **increased to 65% for the entire development in the N-MU zone.**

Article 5, Subdivision and Land Development Ordinance

To ensure the perimeters of new development in the N-MU district either match adjoining residential development by dwelling unit type or provide a buffer to separate the different uses or dwelling types.

6. Commercial Development, Mixed-use District, and Multi-Family Design Standards

c. Development and Design Standards in CC-MU and N-MU Zoning Districts.

9. Requirements for Borders with Adjoining Residential Developments

If the exterior of the tract in an N-MU zoning district adjoins an existing residential development, the borders of the new development that adjoin residential development shall either contain the same or lesser density dwelling types at the perimeter as are present on the exterior or a 35-foot-wide forested buffer area.

To ensure that all new residential or mixed-use development provides open space for recreational amenities for the residents of the development, if there is no publicly accessible park within a ¼ mile.

15. Open Space Standards for New Residential or Mixed-Use Developments in N-MU, RMOD, RMED, RH, and RO Districts

- a. If publicly accessible parks are not located within ¼ mile of a proposed residential development, then the development plan must include at least the following in open space amenities to serve the passive and active recreational needs of the residents of the new development:
 - i. Under 10-acre Tract – walking/biking paths;
 - ii. 10-20-acre Tract – walking/biking paths, picnic pavilions, and a Tot Lot;
 - iii. Over 20-acre Tract – at least 10% of tract set aside for usable open space and recreational amenities. Such open space shall not be comprised of accumulations of leftover remnants of land on the site, but shall constitute meaningful designed areas of land intended for recreational amenities. For the purposes of this section, open space amenities may include club houses, pools, Main Street outdoor gathering areas, linear parks, multi-use fields, tot lots, courts, benches and pavilions, etc. Portions of floodplain may be included in the open space set aside if the area can be used for walking/biking paths and recreational activities requiring minimum improvements such as soccer and disc golf. Forest Conservation Areas may not be included in this open space set aside, unless it is able to be used for trails. The Planning Commission may approve a lesser percentage of the tract devoted to open space for recreational amenities if they are convinced the intent of the code is being met by the quality and quantity of amenities proposed in the entire tract to be developed.
- b. For developments over 40,000 square feet in area and only comprising multi-family dwelling units, the minimum open space requirements shall be in accordance with subsection 6, b, (9) of this article if they exceed the above provisions.
- c. For cluster development and planned unit developments, the minimum percentage of land required for open space shall be in accordance with the respective provisions in Article 4.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-06	Is this a new issue or one previously discussed?	Discussed
Version: 1	Is this new text proposed since last discussion in need of initial review?	New
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Minor adjustment to further clarify the expiration exemption for buildings built as duplexes and townhouses on undersized lots.		
Justification: This provision was raised as a defense to a zoning violation notice recently for a house that had been converted to a two-family dwelling but became an expired nonconformity because the lot was under the minimum lot size and width requirements for a two-family dwelling. The BZA upheld the decision, but staff suggests this amendment so that this argument cannot be made again and the city attorney concurs.		

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

Article 4 (Zoning)

Section M (Nonconforming Uses)

11. Exemption for Buildings Constructed as Two-Family Dwellings or Townhouses.

A structure is exempt from the effects of the expiration period of nonconformity and the limitations cited in foregoing subsections of this section, under the following conditions:

- a. The building is located in the RMOD, RMED, RH or RO Zoning District and **when first constructed** was **originally** constructed as **(and appears as)** a two-family dwelling or stick of townhouses, displaying such features as separate front doors, separate driveways, separate porches, addresses, and/or other physical characteristics of a two-family dwelling or stick of townhouses; and
- b. That building may be in its **originally constructed** use configuration or has been modified to combine units, in which case an owner may modify the building back to its originally intended occupancy, including townhouses when in districts where townhouses are not currently permitted uses. **This provision does not apply to units added after the original construction of the building.**
- c. The building is located in a zoning district that permits two-family dwellings or townhouses, but is rendered noncomplying or nonconforming due to the property not meeting lot area, width, and other bulk requirements, or in the case of townhouses, in a district that does not currently permit this use. Under the above conditions, each of the units may be reoccupied regardless of any period that the building has been vacant and units previously combined into a single unit may be redivided by party wall to re-establish the originally intended number of units- **created when the building was first constructed.**

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-07	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: Minor adjustment to the design requirements for new auto sales and leasing facilities, to address addition of uses to existing facilities and expansions.

Justification: Compliance with the design requirements (or some lesser version approved by the Planning Commission) is required when introducing this use to a property. However, adding uses to a property can further impact conditions on a property that has a sales facility that pre-dates the design requirements. So can additions. Language is added that states if new uses are added to a property or the use expands, compliance with the design requirements is also required. Consolidated sub-section (f) into the title for efficiency.

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

Article 4 (Zoning)

Section F.2 (Commercial Districts – Uses)

Subsection b(8) (Performance Standards – Automobile and/or truck sales and/or rental facilities)

- (8) An automobile and/or truck sales and/or rental facility **proposed for locations which have not most recently been occupied as a motor vehicle sales facility within the past five years, and for existing motor vehicle sales facilities which are expanding or adding additional uses to the site** shall:
- (a) Provide landscaped buffers for all parking and inventory display or storage areas in accordance with the requirements of Article 5 of this Code, both in required minimum buffer widths and required landscape plantings; and
 - (b) Provide sufficient employee and customer parking and install signage identifying parking for customers and employees, and provide adequate on-site traffic circulation for safe and orderly egress from and ingress to the site; and
 - (c) All on-premise business identification signs shall be professionally designed and constructed for long-term use; and
 - (d) The developer shall submit a site plan for review and approval in accordance with the provisions of Article 5. The type of site plan shall be consistent with the requirements of that Article based on the amount of land disturbance that is proposed. The Planning Commission may reduce or waive provisions of the landscaping and design requirements based on unique site conditions, practical difficulties, or presentation of an alternate plan that achieves the intent of the Ordinance requirements. Such use shall not commence until the site plan is approved and the improvements are completed. Vehicles will not be stored or displayed in buffer areas.
 - (e) Automobile sales shall be permitted in the CL Zoning District only when all for-sale inventory and all vehicles on site for repair or preparation for sale shall be stored inside of fully enclosed buildings at all times. At no time will for-sale inventory, vehicles awaiting preparation for sale, or on-site for service be stored outdoors. Nothing in this provision shall be interpreted to permit warehousing of automobiles as a principal use. Automobile and/or truck rental, and the sale of recreational vehicles and/or boats shall not be permitted in the CL District.
 - ~~(f) The provisions of this subsection shall not apply to any facility that is proposed for a location where the most recent use of the area to be used was a motor vehicle sales facility for a period of up to five years prior to application, however, all other requirements of the Land Management Code shall be met. This exemption shall not apply to any facility where the last use of the property for automobile sales occurred five or more years in the past.~~

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-08	Is this a new issue or one previously discussed?	Discussed
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: Prohibit residentially used properties in commercial and mixed-use districts from installing vending machines for sale of products to the general public and automated teller machines (ATMs)		
Justification: A homeowner of a property in a residential zoning district inquired to staff about installing a beverage vending machine in front of their home. This was not permitted since the property was in a residential zoning district, but it caused staff to look at the provision that was added a few years ago to the mixed-use, commercial, industrial and overlay district use chart to provide some reasonable control of this issue in commercial and mixed-use districts. The review uncovered that there are properties in the mixed-use and CL districts, such as exclusively residential properties, institutional uses, houses of worship, etc. and nonconforming residential properties in commercial and industrial districts where their presence would be inappropriate and inconsistent with the residential or institutional character of their property and often inconsistent to surrounding properties. There is nothing in the ordinance that prohibits this at this time, so a provision is added to do so. There is no need to address in Chart 1 (residential uses) because this use is not enumerated at all in that chart, meaning it is prohibited in those districts under any circumstances.		

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

Article 4 (Zoning)

Section Z.2 (Use Chart – Mixed Use, Commercial, Industrial and Overlay Districts)

Revise description of use (left column). Found in subsection labeled “Service and Sales Industries”

Outdoor vending machines entirely on private property in active **commercial** use and not in a public street right-of-way, provided that the vending machines(s) comply with building setbacks unless abutting a building. **This use shall be prohibited on properties that are exclusively residential or institutional in use.**

Revise description of use (left column). Found in subsection labeled “Office and Professional Uses”

Outdoor Automated Teller Machines (ATM), not accessory to a banking institution **located on properties in active commercial use and not in the public street right of way, provided that the ATM(s) comply with the building setbacks unless abutting a building. This use shall be prohibited on properties that are exclusively residential or institutional in use.**

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-09	Is this a new issue or one previously discussed?	Discussed
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 language to the use chart that requires all new theater or performance venues in existing buildings to comply with parking requirements.

Justification: Staff received a proposal to create a nightclub venue in an existing building in the CG zoning district on a property with little existing parking. Historically, unless there is an approved site plan involved, the City has never evaluated new uses of existing buildings for parking conformance. Installing such a use on a property with so little parking would have serious impacts on traffic and parking in the surrounding area. The wording “subject to the parking requirements of Section O” is written as not to exclude the possibility of applying to the Board of Zoning Appeals for a variance.

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

Article 4 (Zoning)

Section Z.2 (Use Chart – Mixed Use, Commercial, Industrial and Overlay Districts)

Banquet and reception facilities (722320) **subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.**

Entertainment club **subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.**

Night clubs ~~subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.~~

Sports Wagering Facility, as defined, permitted, regulated and licensed by the State of Maryland. This use may be independent of any other business or located within a restaurant, drinking place, brew pub, distillery pub, wine pub, or multi-purpose arena for sporting events and entertainment that is permitted in the district, **subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.**

Theater, movie (512131) **subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.**

Theater, performing arts (711310) **subject to the parking requirements of Section O in all districts where permitted except the CC-MU District.**

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-10	Is this a new issue or one previously discussed?	Discussed
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 the difference between the change of a nonconforming use and a special exception.		
Justification: Historically, the zoning ordinance has always had wording in it that blurs the difference between a special exception and a change of a nonconforming use. This change removes that confusion and clearly addresses these two actions separately. Also, this change consolidates redundant language and removes wording regarding notice that exceeds State law requirements.		

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

Article 4 (Zoning)

Section M (Nonconforming Uses)

7. **Change of Nonconforming Use to Another Use.** A **valid, un-expired** nonconforming use may be changed to another use not permitted by right or special exception in the district in which the property is located if the applicant shows, **and the Board of Zoning Appeals determines, the following:** ~~that~~

The proposed change will have less objectionable external effects than the existing nonconforming use with respect to traffic generation and congestion, including truck, passenger car and pedestrian traffic; noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration; storage and waste disposal; and appearance. ~~Such a change is termed a special exception, requiring the approval of the Board of Zoning Appeals.~~ **New paragraph break.**

The Board of Zoning Appeals is prohibited from changing a nonconforming use to any of the following uses:

- a. Adult entertainment business;
- b. Bonding, probation and parole of defendants in the criminal justice system;
- c. Drinking place;
- d. Homeless shelter;
- e. Hookah or vapor lounge;
- f. Kennel;
- g. Sale of fireworks;
- h. Tattoo parlor, massage parlor, steam bath or sauna;
- i. Nursing home;
- j. Outpatient substance abuse centers, including disbursement of addiction treatment drugs;
- k. Hospitals, including psychiatric, substance abuse and specialty hospitals;
- l. Assisted living facilities; and/or
- m. Rehabilitation centers.

When a district permits the above uses, changing the use is not subject to this provision **since the proposed use is permitted in that district** and the **new** use shall comply with all performance standards as may apply in that district.

Change of title of Section U.1.

U. Board of Zoning Appeals - Applications, Notice, Powers and Duties.

1. **Application and Notice for Administrative Appeals Interpretations, Special Exceptions, Confirmation, Enlargement and Change of Nonconforming Uses and Variances.**

- a. Applications shall be filed with the Board of Zoning Appeals by the applicant at least 21 days in advance of the public hearing.
- b. The Board of Zoning Appeals shall advertise the hearing **and provide notice** in accordance with the Land Use Article of the Annotated Code of Maryland ~~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.~~
- c. Notice of said advertised hearings shall be posted on the property at least ten days prior to the public hearing at a location where the sign is readable from curbside, or a sidewalk in front of the property. **However, in the case of an administrative appeal, if the appellant does not have control over a property subject to appeal and cannot secure permission from the property owner to post the property, the appellant shall provide written notice to the Board and the hearing may proceed without the property displaying the sign.**
- d. The owner of the property **subject to appeal** or his or her agent shall be notified at the time of advertisement by mail of the date, time and place of the public hearing.
- e. **At the hearing, having been advertised and notice provided to parties in accordance with the requirements of the Land Use Article of the Annotated Code of Maryland, any party may appear in person or by agent or by attorney. The Board of Zoning Appeals shall provide a written decision within 45 days of the hearing. Failure of the Board to comply with this time limitation shall be construed as approval of a requested administrative appeal, variance, special exception, or confirmation, enlargement or change of a nonconforming use, and shall vacate a notice of violation appealed to the Board.**
- f. **Upon request of the applicant or a party with standing, or upon its own motion, the Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.**
- g. **Upon request of the applicant or a party with standing or upon its own motion, the Board may postpone a scheduled hearing. Requests for postponement of a scheduled hearing shall be filed in writing with the Board not less than five working days prior to the date of the hearing. The granting of such requests shall be at the discretion of the Board.**

2. Appeals; Transmission of Records; Time Limitations.

Appeals to the Board of Zoning Appeals may be taken by any person who may have the right to appeal or by any department, board or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be heard by the Board of Zoning Appeals at their next available meeting. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

When the decision of the Zoning Administrator being appealed is a notice of zoning violation, such appeal shall be filed not later than 30 days from the date of the action of the Zoning Administrator and shall state the reasons for the appeal. The Board of Zoning Appeals shall dismiss any appeal not filed in accordance with this section. The day after the date of the notice shall constitute the first day of this time period, and the period shall expire at the close of business on the 30th day of this period. When the 30th day falls on a weekend or legal holiday, then the period shall expire at the end of the next business day.

3. Stay of Proceedings on Appeal.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him or her, that by reason of the facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

4. ~~Hearing An Appeal.~~

a. ~~**Notice of Hearing; Time Limit for Decision.** The Board of Zoning Appeals shall give public notice thereof by advertising in at least one newspaper of general circulation in the city once each week for two consecutive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing, as well as due notice to the parties in interest, and decide the same within 45 days of the hearing. Upon the hearing, any party may appear in person or by agent or by attorney. Failure to comply with this subsection by the Board of Zoning Appeals shall be construed as approval of a requested variance, special exception, or confirmation, expansion or change of a nonconforming use, and shall vacate a notice of violation appealed to the Board.~~

b. ~~**Continuances.** Upon request of the applicant or upon its own motion, the Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.~~

c. ~~**Postponement of Hearing.** Upon request of the applicant or upon its own motion, the Board may postpone a scheduled hearing. Requests for postponement of a scheduled hearing shall be filed in writing with the Board not less than five working days prior to the date of the hearing. The granting of such requests shall be at the discretion of the Board.~~

5. 4. Considerations to be Given in Board of Zoning Appeals' Decisions.

The following rules of procedure are set up to be followed by Board of Zoning Appeals before deciding any case. The Board:

- a. Shall give public notice and hearing;
- b. May make inspection of the premises involved in the application and the surrounding area;
- c. Shall give consideration to the purpose, application, interpretation, and standards of this Article.
- d. Shall give consideration to present physical conditions on the premises and in the vicinity and the City's goal to provide for orderly growth and improvement of our neighborhoods and community as a whole;
- e. Shall give consideration to the special exception, **nonconforming use** and variance standards prescribed in Subsection 8 and to the effect of such special exception or variance upon the peaceful enjoyment of people in their homes and whether such use would deteriorate the quality of life in the neighborhood, through undue traffic congestion, neighborhood parking shortages, odors, dust, gas, smoke, fumes, vibration, glare, noise, or similar impact;
- f. Shall give consideration to the most appropriate use of land and structures in accordance with the City's adopted Comprehensive Plan;
- g. Shall open the hearing on each special exception, **nonconforming use** and variance case with a staff presentation to orient the Board and the applicants to the pertinent sections of the ordinance related to the proposed use or appeal and to any **comments**,

- recommendations** or issues which City staff or City Boards or Commissions may have with the proposal;
- h. Shall give all interested parties an opportunity to testify as to any material facts in connection with the proposed use;
 - i. Shall act as a fact-finding body and shall approve or disapprove the ~~issuance of a permit application~~ for the proposed use in accordance with the evidence in the record before it.

6.5. Review of Applications and Recommendations by Interested Boards and Commissions on Applications for Interpretations, Special Exceptions and Variances.

No change to this section proposed.

7.6. Interpretations, Appeals, Special Exceptions, Nonconforming Use Actions and Variances.

- a. **Interpretations. Administrative Appeals.** The Board of Zoning Appeals is empowered to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination, including but not limited to questions concerning nonconforming uses, made by the Zoning Administrator or any other agent of the City in the enforcement of this Article.
- b. **Special Exceptions.** The Board of Zoning Appeals is empowered to hear and decide such special exceptions as specifically authorized by the terms of this article; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions if same does not violate the spirit and intent of this article. A special exception shall not be granted by the Board of Zoning Appeals unless and until it finds that the general criteria found in Subsection ~~U.8.a~~ **U.7.a** and when applicable, the specific criteria for particular special exception uses in specific districts found in Subsection ~~U.8.a.7~~ **U.7.a.7**, are met.
- c. **Nonconforming Use – Confirmation, Enlargement and Change.** The Board of Zoning Appeals is empowered to hear and decide applications requesting confirmation of a nonconforming use, enlargement of a nonconforming use in accordance with the limitations in Section M, and the change of a nonconforming use to another use that is not a permitted or special exception use in that zoning district. Authority to approve the change of a nonconforming use is subject to certain limitations and exceptions found in Section M.7. In order to approve the change of a nonconformity to another use not permitted within that zoning district, the Board shall make the finding set forth in Section M.7.
- e. d. **Variances.** The Board of Zoning Appeals is empowered to authorize upon appeal applications for a variance filed by a person or persons with a contractual or proprietary interest in the property. The Board may only authorize a variance from height, lot width, lot area, lot area per dwelling unit, setback requirements, parking space requirements and sign area requirements of this article. A variance shall be granted only upon specific findings made by the Board that each of the criteria for variances found in Subsection ~~U.8.b~~ **U.7.b** are met.

8.7. Criteria for Approval of Special Exceptions and Variances.

- a. **Special Exceptions.**

No special exception shall be approved by the Board of Zoning Appeals until and unless the Board, in its written order finds that the application complies with the following criteria:

No changes to this section proposed.

b. **Variances.**

No changes to this section proposed.

c. **Confirmation of a Nonconforming Use.**

No confirmation of a nonconforming use shall be approved by the Board of Zoning Appeals until and unless the Board, in its written order, finds that a sufficient preponderance of evidence has been provided by the applicant of the existence and extent of the nonconforming use. The written order of the Board in such matters shall include a summary of its understanding of the size, location, nature, extent and intensity of the nonconforming use.

d. **Enlargement of a Nonconforming Use.**

No enlargement of a nonconforming use shall be approved by the Board of Zoning Appeals until and unless the nonconformity has previously been confirmed to exist by the Zoning Administrator or the Board. After the legal existence of the nonconformity is confirmed, the Board may permit the enlargement of the use, in accordance with the provisions of Section M.5. The written order of the Board in such matters shall include a summary of the approved enlargement regarding size, location, nature, extent and intensity of the enlarged nonconforming use.

e. **Change of a Nonconforming Use.**

No change of a nonconforming use to another use not permitted by right or special exception in the district in which a property is located shall be approved by the Board of Zoning Appeals until and unless the nonconformity has previously been confirmed to exist by the Zoning Administrator or the Board. After the legal existence of the nonconformity is confirmed, the Board may permit changing the use to another use, in accordance with the provisions of Section M.7. The written order of the Board in such matters shall include a summary of the new approved use regarding the activity, size, location, nature extent and intensity of the new use.

9.8. Decisions of the Board of Zoning Appeals.

No changes to this section proposed.

10.9. Variance Exception for Public Improvements.

No changes to this section proposed.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-11	Is this a new issue or one previously discussed?	Discussed
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: Codify parking requirements for child day care centers.

Justification: There is no specific parking requirement for child day care centers in the zoning ordinance, which results in the Zoning Administrator having to interpret the ordinance, using the ITE Parking Generation Manual as a guide. This is a popular use, so the requirement should be stated in the Ordinance rather than resort to interpretation. The ITE manual states parking demand at peak hour for a child day care center is 0.24 spaces per child. Frederick requires one space per 375 square feet. Rockville requires one space per 4 children in a facility in a residential zone and one per 6 children in a commercial zone, with adequate drop off and pick up space.

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

Article 4 (Zoning)

Section O.4 (Required Number of Parking Spaces)

Use	Required Spaces
Child Day Care Center	One space per 5 children, calculated based on the maximum number of children cared for at one time, with adequate drop-off area.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-12	Is this a new issue or one previously discussed?	Discussed
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: Authorize a pre-approved list of street names for developers to choose from.		
Justification: Removes a complexity from the subdivision plan review process. Allows city to select themes through which to create categories of names so the names of streets in new subdivisions are coordinated on a single theme.		

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

Article 5 (Subdivision and Land Development) Section E (Subdivision Design Principles and Standards)

1. Application.

Blue: No changes to this section.

2. Street Layout and Subdivision Design.

Blue: No changes to Items a. through v.

Red: w. Street Names

Red: In the event that staff can arrange for the reservation and pre-approval of street names in coordination with other agencies, staff shall compile a list of available and pre-approved street names for use within new subdivisions. Names will be coordinated on themes and used within a new subdivision. The developer may pick street names from this list or propose new street names for consideration by review agencies. In all cases, the names of new streets in new subdivisions shall be coordinated on a central theme to promote the identity of the new community.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-13	Is this a new issue or one previously discussed?	Discussed
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
Summary: Remove decorative banners from sign regulations		
Justification: Some locations, mostly institutional uses on larger tracts, utilize decorative banners for beautification. Remove these from sign requirements provided they are not used for obvious signage.		

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

Article 4 (Zoning)

Section I (Signs)

Subsection 3. (Measuring Signs and Building Frontages)

e. ~~**Temporary Signs.** Temporary signs, for short term use and as defined in Article 3, are exempt from this section.~~

c. **Exemptions from this Section.**

- (1) Temporary signs, for short term use and as defined in Article 3, are exempt from this section.
- (2) Ornamental banners displayed on free standing posts and light poles, where the banner is constructed of a permanent material (not vinyl sheeting), does not contain graphics or references to products or services provided on the site, and display of the name, logo or seal of the occupant on the banner does not exceed more than 40% of the surface of one side of the banner, are exempt from this section.
- (3) The exemptions provided for in this subsection do not exempt the temporary sign or ornamental banner from review and approval by the Historic District Commission when the property is located within a historic district or landmark under the purview of that Commission.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-14	Is this a new issue or one previously discussed?	Discussed
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 CL district uses in existing buildings that are built as mixed-use buildings in the RO District. This allows for a wider array of potential commercial uses that could potentially occupy storefronts in mixed-use building that are difficult to attract only those commercial uses permitted in the RO District by right.		
Justification: Allows for reuse of some awkward existing buildings in the RO District.		

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

Article 4 (Zoning)

Section Z.1 (Use Chart – Residential Districts)

Service and Sales Industries					
	AT	RMOD	RMED	RH	RO
Farms in existence on the date of the adoption of this ordinance, or at the time of annexation into the city, may continue in use. Commercial farming operations may not be expanded with respect to area or intensity of usage, nor may the type of commercial agricultural use be altered.	P				
Hair, nail and skin care stores (81211) and dog grooming establishments.					SE
Kennels (812910).	P				
Mixed use building of commercial and residential units.				SE	P
Nurseries and greenhouses - the raising of plants for sale with attached commercial outlet (444220).	P				
Uses permitted by right in the CL District in a location to serve the needs of surrounding residential uses.				SE	
Uses permitted by right in the CL District in commercial spaces in buildings constructed or later modified to be mixed use buildings.					SE
Wineries and vineyards (312130).	P				

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-15	Is this a new issue or one previously discussed?	Discussed
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 overlooked use of the obsolete term “preliminary plan”.		
Justification: Technical correction missed in previous amendments.		

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

Article 5 (Subdivision and Land Development)

Section A (General Provisions)

Subsection 3 (Application and Interpretation)

c. **Re-Subdivision or Boundary Line Adjustment.**

Re-subdivision plan approval is required in order to modify a previously recorded plat by adding or deleting lots or modifying lot lines. Provided there are no public road or private access place improvements required and no addition to the area previously recorded, a re-subdivision or boundary line adjustment is exempt from the sketch plan and ~~preliminary~~ **development** plan procedures of this subtitle. Initial submissions may be at the final plat stage.

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

Topic:

Restoration of Deputy Fire Chief Position - *Chief Steven Lohr*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

DFCRestorationMemo_Oct_10_2023.docx

Deputy_Fire_Chief -
_Job_Description_FINAL_Oct_10_2023.docx

Description

Restoration of Deputy Fire
Chief Position

Deputy Fire Chief Job
Description



CITY OF HAGERSTOWN, MARYLAND

Steven E. Lohr
Fire Chief

October 10, 2023

TO: Scott Nicewarner, City Administrator
FROM: Steve Lohr, Fire Chief *Steven E. Lohr*
SUBJECT: Updated Request for Restoration of The Deputy Fire Chief Position

Per Mayor and Council direction during Executive session on 8/15/23, please consider this updated request to restore the Deputy Fire Chief position that was budget lapsed in 2010. This action has the support of the City Administrator and Finance Director.

The Hagerstown Fire Department requests that the Mayor and Council restore a Deputy Fire Chief (DFC) position at the time a replacement fire chief is appointed in the 2nd quarter of FY23. The draft job description was modified to include both internal and external applicants.

The purpose of the Deputy Fire Chief position is to serve as a second in command for the HFD and to restore additional on-call availability of senior command staff for the fire department. Day-to-day, this position will provide needed capacity to manage the human resources, training and program performance of the major work areas within the HFD. They are operations, the fire marshal's office, community risk reduction, safety, public relations, labor relations, fleet and facilities maintenance, and of course performance measurement and back-up to the fire chief with inside and outside demands related to community needs and governance. These growing duties simply cannot be maintained with a single exempt full-time position. The Deputy Fire Chief would be specifically responsible for developing and implementing policies, procedures, codes, regulations, and other rules necessary for the efficient and effective operation and administration of the department.

The Deputy Fire Chief will restore a structured continuity of operations for the HFD on a daily basis, with a defined second in command position to assist the Fire Chief. Currently, the Battalion Chiefs share these responsibilities collaterally on a 24/48 shiftwork schedule. This is unsustainable. While some co-lateral duties will still be necessary, it provides necessary capacity and leadership continuity whenever the chief is unavailable. Additionally, this is a 40-hour/week position that will have the skills and capacity to function as the shift commander to reduce overtime. The Deputy Fire Chief will have shared supervisory and oversight responsibilities for all elements of the HFD along with the Executive Administrative Services Coordinator, fire marshal and other command staff to properly realign workload of these positions that they inherited when the Deputy Fire Chief and the Community Risk Reduction positions were budget lapsed in 2010.

While the HFD has many additional staffing needs, our current highest priority is the restoration of a Deputy Fire Chief. As stated, this position will enhance continuity of operations and allow the HFD to effectively meet the growing workload of a robust municipal fire department.

cc:
Mayor and Council
Finance Director
Local 1605
file

CITY OF HAGERSTOWN
DEPUTY FIRE CHIEF

CLASSIFICATION NO.:

DEPARTMENT: Fire

GRADE:

FLSA STATUS: Exempt

Education:

Preferred Bachelor's Degree in Fire Science/Management or related field, or equivalent combination of education and experience.

Experience:

Extensive (seven (7) years) experience in fire and rescue management and operations, with at least four (4) years in a managerial or supervisory capacity. Shall have leadership and management abilities, as well as command ability on emergency incidents.

Shall have the ability to deal satisfactorily with conflicts and interests that are necessary to successfully manage subordinate personnel during routine operations as well as emergency situations.

Thorough knowledge of current firefighting/rescue techniques, procedures, and trends; to include a thorough knowledge of appropriate OSHA/MOSH regulations and NFPA standards.

Working knowledge and understanding of budgeting, management, planning, personnel administration, financial management, labor relations, current Union contract requirements, basic statistical analysis, and City personnel regulations.

Training, License, & Certification:

Possession of an appropriate driver's license valid in the State of Maryland

Maintain Maryland Emergency Medical Technician Basic

Certifications through MFSPQB (Maryland Fire Service Personnel Qualifications Board, Inc.), NPQB (National Professional Qualifications Board), and/or IFSAC (International Fire Service Accreditation Congress):

- All certifications required of a Battalion Chief and/or Fire-Rescue Captain
 - Fire Officer 3
 - Fire Instructor 2
 - Fire Apparatus Driver/Operator
 - Aerial

- Pump
 - Hazardous Materials Operations
 - Incident Safety Officer
 - Fire Suppression
 - Technical Rescue
 - Rescue Technician
 - Confined Space
 - Vehicle Rescue
- Fire Officer 4 within two (2) years of appointment

Completion of the Maryland Fire and Rescue Institute Staff and Command Program within two (2) years of appointment

Completion of the National Blue Card Incident Command Program

Complete and maintain appropriate National Incident Management System training to meet national standards

Position Description:

The Deputy Fire Chief plans, organizes, directs, and evaluates the programs and services provided by the fire department; while providing leadership and strategic direction for developing and administering those programs and services to meet overall department needs and objectives. This position reports to the Fire Chief and serves as a member of the fire department's executive leadership team. The Deputy Fire Chief exercises command and control over the functions within the department; including supervision of staff, administrative and personnel issues, long range planning and needs assessment, and developing approaches and solutions that accommodate often conflicting objectives.

Essential Functions/Duties (Illustrative Only):

The tasks listed below are illustrations of the various types of work performed and are not intended to be all inclusive. The omission of specific duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

1. Strategically assess and manage department operations to ensure operational readiness
2. Serve as the fire department's liaison with the human resources department
3. Assist the fire chief with development and implementation of the fire department's strategic vision and plan
4. Serve as acting Fire Chief in the absence of the Fire Chief
5. Assist the Fire Chief with assessment, preparation, and management of annual operating and capital improvement budgets; including grant programs

6. Provides direct strategic oversight of the various functions within the fire department (operations, community risk reduction, training, safety, public relations, maintenance & replacement of facilities & equipment, strategic planning, pre-incident planning, inspections, labor negotiations, hiring & promotional processes, etc.)
7. Develops, recommends, revises, and implements effective codes, regulations, rules, policies, and procedures as necessary for the efficient and effective operation and administration of the department to ensure that goals and objectives are attained.
8. Collaboratively and collectively work with the city-wide management team to ensure fire, rescue, and emergency medical services delivery for planned community events
9. Accurately maintain records and correspondences; prepare, review and edit reports. Provide verbal and written reports as necessary to department personnel, administration, and city leadership
10. Ensure primary command officer coverage, and function as a shift commander when necessary
11. Responds to emergency incidents and establishes or participates within the appropriate command structure for incident management.
12. Performs hazard/risk assessment at emergency incidents and evaluates effectiveness of strategy/tactics, taking appropriate action to ensure a successful outcome.
13. Serve on departmental committees as assigned, and represent the Hagerstown Fire Department on outside committees and other organizations as necessary; serving as a liaison to outside support agencies as necessary.
14. Establish and maintain working relationships with career and volunteer emergency service personnel, inspectors, and the general public.
15. Other related tasks as required/assigned by the Fire Chief

Physical Requirements:

This is medium work requiring the exertion of 50 pounds of force occasionally, up to 20 pounds of force frequently, and up to 10 pounds of force constantly to move objects; work frequently requires speaking or hearing; work occasionally requires standing, walking, sitting, using hands to finger, handle or feel, climbing, balancing, stooping, kneeling, crouching, crawling, reaching with hands and arms, tasting, smelling, pushing, pulling, lifting, and repetitive motions; vocal communication is required for expressing or exchanging ideas by means of the spoken word, and conveying detailed or important instructions to others accurately, loudly, or quickly; hearing is required to perceive information at normal spoken word levels, and to receive detailed information through oral communications and/or to make fine distinctions in sound; visual acuity is required for depth perception, color perception, night vision, peripheral vision, preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, use of measuring devices, assembly or fabrication of parts at or within arm's length, operation of machines, operation of motor vehicles or equipment, determining the accuracy and thoroughness of work; and observing general surrounding and activities; the worker is subject to inside and outside environmental conditions, extreme cold, extreme heat, noise, vibration, hazards, atmospheric conditions, oils, and wearing self-contained breathing apparatus. The worker may be

exposed to bloodborne pathogens and may be required to wear specialized personal protective equipment.

Mental Requirements

This position requires excellent communication skills, oral and written, as well as a high degree of analytical and problem-solving skills. Must have the ability to manage complex issues/projects and incidents often simultaneously and under pressure of deadlines.

Department Manager

Date

Human Resources Manager

Date

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

Topic:

City's Legislative Priorities for 2024 Maryland General Assembly - *Scott Nicewarner, City Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MC_Memo_2023LegislativeListing.pdf

Description

2024 Legislative Priorities



CITY OF HAGERSTOWN, MARYLAND

Scott Nicewarner
City Administrator

One East Franklin Street • Hagerstown, MD 21740

E-mail: snicewarner@hagerstownmd.org

Telephone: 301.766.4168 • TDD: 301.797.6617 • Website: www.hagerstownmd.org

TO: Mayor and City Council

FROM: Scott Nicewarner, City Administrator

DATE: October 10, 2023

SUBJECT: City's Legislative Priorities for 2024 Maryland General Assembly

ACTION REQUESTED

Discussion of legislative priorities to present to our lobbyists, the Washington County Delegation to the Maryland General Assembly, as well as other stakeholders, decision-makers and influencers in Annapolis.

BACKGROUND

Staff discussed on September 19, 2023 suggestions to aid in formulating the priorities for legislative action in the 2024 Maryland General Assembly.

Two priorities from previous sessions of the Assembly to return to Annapolis and supported by staff are:

- Fieldhouse Funding (\$4 million)
- Tax Sale – Unpaid Abatements and Liens for Vacant Properties.

Other subject areas for legislation suggested included:

- Funding for construction of HFD HQ site at 441 S. Potomac Street
- Relocation / Expansion of Community Gardens
- Required certification and registration of Sober Houses in Maryland
- Required certification and registration of Property Management companies in Maryland
- Public Identification of Principals in LLC Filings for Business Licenses
- Change in annexation rules regarding mixed zoning designations
- Making Washington County a “shall” county related to tax differential communications

MML will be looking for support from the City on it's strategic initiatives to be presented to the general membership on October 16. These priorities are:

- Establishment of Tourism Zones.
- Civilianize the review and citing of speed camera violations.
- Establishment of a task force to study revenue enhancements for municipalities.



The listing produced will be forwarded to our lobbyist, the Community Coalition, and our Washington County delegation for their input during the Pre-Legislative Session meeting with City elected officials the first week of November. Many, if not all, of the suggested initiatives may end up as separate legislation submitted by other delegations. If so, and it is one you would wish to pursue, we can either ask for local delegation sponsorship or if not received offer letters of support to the committee reviewing the proposed legislation.

We look forward to discussion and inclusion of any initiatives that are not on the list and would like supported by the delegation.

DECISION REQUESTED

Consensus for communication of a priority listing of legislative proposals for the 2024 General Assembly session.



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

Topic:

Trick or Treat - *Scott Nicewarner, City Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Trick_or_Treat.pdf

Description

Memo - Trick or Treat



CITY OF HAGERSTOWN, MARYLAND

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City Administrator

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October 10, 2023

TO: Mayor and Council

FROM: Scott Nicewarner, City Administrator

RE: 2023 Trick-or-Treat

I will be providing the Mayor and City Council with a request to continue the date and responsibilities of Trick-or-Treat in the City of Hagerstown as has been in place for the past four years.

*"It is suggested that families Trick-or-Treat this year on **Tuesday, October 31st from 6:00 PM to 8:00 PM** in order to give your friends, motorists and public safety an idea when to expect pedestrians and visitors at their door. Participation and scheduling is entirely up to each family. Since Trick-or-Treat will not be scheduled or managed by the City, the City would not re-schedule or suggest a "rain date" in the event of inclement weather. Moreover, it is perfectly acceptable for folks to opt-out and not participate. We ask that each family determine what is best for them."*

This statement places the desire to participate, or not to participate, in Trick-or-Treat activities on October 31st entirely with the family. The understanding is that all City departments will be more aware that the date/time may be used for neighborhood participation in Trick-or-Treat in the City. **However, whether it rains, snows, sleets or hails the City will not be responsible for cancellation or rescheduling of the event.**

