

Mayor and Council Executive Session, Special Session (31st Voting Session) and Work Session February 10, 2026 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"

4:00 PM SPECIAL SESSION

1. Approval of Construction Contract with Huntzberry Brothers
2. Appointments: Community Development Block Grant (CDBG) Citizen Advisory Committee

Joseph Jefferson – Term Expires March 1, 2028

Monique Broadus – Term Expires March 1, 2028

4:00 PM WORK SESSION

- 3:00 PM 1. The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.**
- 3:00 PM 2. EXECUTIVE SESSION – Council Chamber, 2nd floor, City Hall**
- 4:10 PM 3. Proclamation: Black History Month**
- 4:15 PM 4. ICE Letter Request - *Mayor and Council***
- 4:35 PM 5. City Park Concession Stand – *Eric Deike, Director of Public Works***
- 4:50 PM 6. Pangborn Park Fishing One-Year Follow up – *Eric Deike, Director of Public Works***
- 5:05 PM 7. Wheaton Park Interpretive Signs – Jim Bender, City Engineer and Terri Fleetwood with New View Creative, LLC**
- 5:15 PM 8. Proposed Rezoning – ZM-2026-01 – Emmert Road and Trolley Drive – *Steve Bockmiller, Deputy Director Planning and Zoning Administration***
- 5:20 PM 9. Proposed Rezoning - ZM-2026-02 – Eastern Boulevard and Leitersburg Pike – *Kristian Broche, Assistant Zoning Administrator***
- 5:25 PM 10. Cable Franchise Contract Change Order – *Scott Nicewarner, City Administrator***
- 5:30 PM 11. Easements for Murals and 2026 Event Update – *Brittany Arizmendi, Director of Community Engagement***
- 5:45 PM 12. Open Container Permits for 2026 – *Brittany Arizmendi, Director of Community Engagement***

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

Approval of Construction Contract with Huntzberry Brothers

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Approval_of_a_Construction_Contract.pdf

Description

Approval of a Construction
Contract

REQUIRED MOTION

**MAYOR & CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: February 10, 2026

TOPIC: Approval of a construction contract

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

MOTION: I hereby move to award a construction contract in the amount of \$747,995 to Huntzberry Brothers, Inc. for improvements at the intersection of S. Potomac Street and Baltimore Street. I further move to allocate an additional \$30,000 from the City's General Fund to cover construction contingencies, consultant services, and inspection and testing costs. The State of Maryland is contributing \$622,236 toward the project, with the balance coming from the City's General Fund under Capital Improvement Project 243.

DATE OF INTRODUCTION: 2/10/2026
DATE OF APPROVAL: 2/10/2026
EFFECTIVE DATE: 2/10/2026

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

Topic:

Appointments: Community Development Block Grant (CDBG) Citizen Advisory Committee
Joseph Jefferson – Term Expires March 1, 2028
Monique Broadus – Term Expires March 1, 2028

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_CDBG_Advisory_Committee_February_2026.pdf

Description

Motion: CDBG Advisory
Committee

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: February 10, 2026

TOPIC: **Appointment to the Community Development Block Grant (CDBG)
Citizen Advisory Committee**

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

MOTION:

I hereby move to appoint Joseph Jefferson and Monique Broadus to the Community Development Block Grant (CDBG) Citizen Advisory Committee with terms to expire on March 1, 2028.

DATE OF PASSAGE: 02/10/2026

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

Topic:

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

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

EXECUTIVE SESSION – Council Chamber, 2nd floor, City Hall

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

February_3__2026_Executive_Session.pdf

Description

Executive Session Agenda



**MAYOR AND CITY COUNCIL
EXECUTIVE SESSION
FEBRUARY 3, 2026
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

3:00 p.m. EXECUTIVE SESSION

1. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; (#4)

** Business Proposal*

2. (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; (#1)

** Appointment: Community Development Block Grant (CDBG) Citizen Advisory Committee Members*

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

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY : Mayor & City Council

DATE : February 3, 2026

PLACE : Council Chamber, 2nd floor, City Hall

TIME : 3:00 p.m.

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

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

EXECUTIVE SESSION AGENDA

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

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

Topic:

Proclamation: Black History Month

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

ICE Letter Request - *Mayor and Council*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Memo_ICE_Facility_in_Washington_County_2.10.2026.pdf

Description

Memo ICE Facility



CITY OF HAGERSTOWN, MARYLAND

Donna Spickler
City Clerk

One East Franklin Street • Hagerstown, MD 21740

E-mail: dspickler@hagerstownmd.org

Telephone: 301.766.4183 • TDD: 301.797.6617 • Website: www.hagerstownmd.org

TO: Mayor McIntire and City Councilmembers
Scott Nicewarner, City Administrator

FROM: Donna K. Spickler, City Clerk

DATE: February 10, 2026

SUBJECT: ICE Facility in Washington County, Maryland

The February 10, 2026 Work Session includes time for the Mayor and City Council to consider the questions Councilmember Anderson raised during the February 3, 2026 meeting regarding the ICE Facility in Washington County, Maryland.

The questions are as follows:

- Whether the Commissioners individually and collectively support the establishment of an ICE detention facility in Washington County;
- Whether the Board will consider adopting a formal resolution opposing the facility;
- The anticipated loss of county tax revenue resulting from federal ownership of the property;
- The county's authority and role in the approval of water, sewer, and infrastructure capacity for a facility of this scale, including responsibility for any required off-site improvements;
- Whether existing water, wastewater, and treatment infrastructure can accommodate a facility of approximately 1,500 beds without adverse impact on current residents or future development;
- Whether any on-site wells or related utilities are subject to county and Health Department approval.

Thank you



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

Topic:

City Park Concession Stand – *Eric Deike, Director of Public Works*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

City_Park_Concession_Stand_Council_Document.pdf

Description

City Park Concession Stand



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Eric B. Deike, Director Public Works

DATE: February 5, 2026

SUBJECT: City Park Concession Stand

MAYOR AND COUNCIL ACTION REQUESTED

No action is being requested of the Mayor and Council at this time. Staff is reporting about the current concession stand operations in City Park.

DISCUSSION

For many years, possibly since the creation of City Park, there has been a concession stand located on the south end of the park. For at least the previous 25 years, the concession stand has been operated by contracts with others. In other words, City staff has not operated the concession stand.

In 2018, the City entered a contract with Nena's Curbside Café and Catering to operate the concession stand. Nena's managed the facility through multiple contracts through the 2025 season. When the latest contract renewal ended in 2025, Nena's elected to no longer operate the concession stand.

Work began on advertising an RFP (Request For Proposal) to find a new concessionaire. An RFP was posted twice (once in the Fall of 2025 and in early 2026). The RFP was heavily advertised with over 40,000 views on the City's Facebook page. Unfortunately, there were no responses to the RFP.

Staff reviewed possible options to continue the concession stand operations. One option was to operate the stand with seasonal and part-time employees. Staff rejected this option given the limited number of full-time staff in Parks & Recreation Division to oversee an operation such as this.

We felt the best option was to close the concession stand at this time. To fill the void of no concession stand, staff has advertised for food trucks to operate within City Park on weekends and at events. This is the same model used at the Claude M. Potterfield Pool when the concessionaire no longer desired to operate the concession stand located on site. For the previous 2 years, the use of food trucks has worked very well.

The previous concessionaire is working to clear the space of their equipment and supplies. The building will be "moth-balled" until a longer term plan is determined.

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

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

Parking Division
1 E. Franklin St.
Hagerstown, MD 21740
Ext.479



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

FINANCIAL IMPACT

A small amount of revenue is expected (\$2,000 to \$3,000) to be generated. Each vendor would pay a fee for operating out of City Park on weekends and for events.

- \$25 for seasonal, smaller events like outdoor movies, Plein Air Festival, golf tournaments, etc.
- \$75 for large festivals like Fall Fest, Harvest Hoedown, and City Park Lighting.
- \$75 for weekends in City Park

RECOMMENDATION

Staff sees few options other than to close the concession stand. Food trucks and vendors provide a variety of foods and options for the public. The food trucks are also mobile allowing them to bring their food to various locations throughout the park as needed.

Staff will be available for discussion at the February 10th Council meeting.

C: Parks & Recreation Division
Finance Department

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

Parks and Recreation Division
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Hagerstown, MD 21740
Ext. 169

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1 E. Franklin St.
Hagerstown, MD 21740
Ext.479

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

Topic:

Pangborn Park Fishing One-Year Follow up – *Eric Deike, Director of Public Works*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Pangborn_Park_Fishing_1-Year_Follow-Up_Council_Packet.pdf

Description

Pangborn Park Fishing 1-Year Follow-Up



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Eric B. Deike, Director Public Works

DATE: February 4, 2026

SUBJECT: Pangborn Park Fishing
1-Year Follow-Up

MAYOR AND COUNCIL ACTION REQUESTED

Staff is looking for Mayor and Council direction regarding the future of fishing at Pangborn Park.

DISCUSSION

Staff met twice in 2025 (February and April) to discuss fishing at Pangborn Park. Initially, the Council was in favor of banning fishing. However, the ban was never approved due to overwhelming public support of fishing, so fishing continued in the park. It was requested that staff return in another year to review the situation once more.

We are pleased to report that fishing continues at Pangborn Park. As promised, the local Antietam Bassmasters club patrols the lake on occasion to collect trash, fishing line, and other debris.

No fishing tournaments were held in 2025. The Antietam Bassmasters club is working to establish a fishing tournament in 2026, but no definitive event date has been confirmed.

Staff has reported an uptick in fishing at Pangborn Park. Presumably, this is from the attention fishing was given in 2025. There are no official numbers. This is simply an observation by staff.

FINANCIAL IMPACT

There is little to no financial impact if fishing remains or is banned from Pangborn Park lake.

RECOMMENDATION

Staff is still in favor of fishing at Pangborn Park lake. The lake is well placed within walking distance of many residents; the lake is accessible by the young, seniors, and handicapped; it is the only body of water within the City boundaries that allows fishing other than Antietam Creek; and fishing is a widely popular sport within the area. These are all excellent reasons to continue the long tradition of fishing in this lake.

C: Parks & Recreation Staff

Public Works Department
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**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Wheaton Park Interpretive Signs – Jim Bender, City Engineer and Terri Fleetwood with New View Creative, LLC

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Wheaton_Park_Interpretive_Signs.pdf

Description

Wheaton Park Interpretive
Signs



CITY OF HAGERSTOWN, MARYLAND

Department of Engineering & Permits

February 10, 2026

TO: Scott Nicewarner, City Administrator

FROM: Jim Bender, City Engineer JMB

RE: Wheaton Park Interpretive Signs

1. Background

As part of the Phase I improvements at Wheaton Park, the former caretaker's house at 124 Charles Street was demolished to create space for other park amenities. The house was listed on the National Register of Historic Places; in order to demolish the structure, the City had to enter into an agreement with the Maryland State Historic Preservation Officer. One of the stipulations of the agreement was that the City needed to install interpretive signs showcasing the house as part of the park improvement project. Local artist and resident Terri Fleetwood worked on the design of the interpretive signs, and they are ready for installation.

2. Mayor & Council Action Requested

No action is needed by the Council; this presentation is strictly for informational purposes. Ms. Fleetwood and staff will be present at the work session to discuss.

3. Discussion

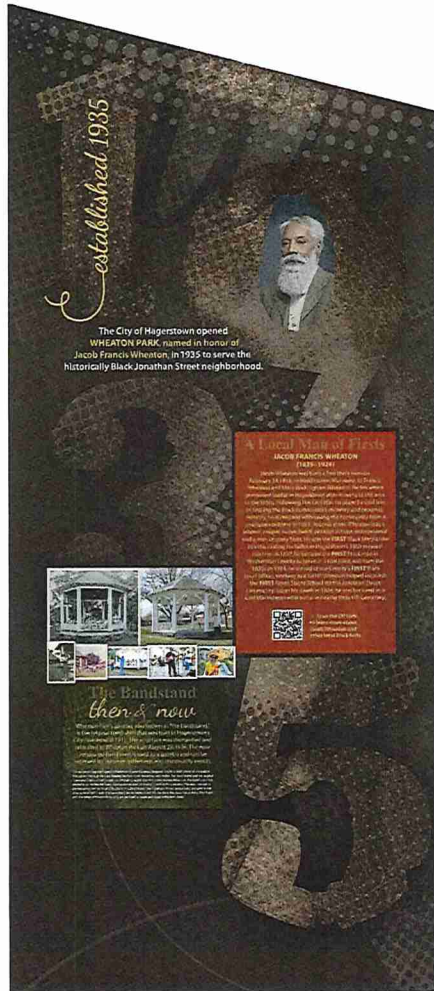
Ms. Fleetwood will present small-scale models of the interpretive signs, and will discuss the process that she went through to research the content on the signs. Weather permitting, the signs will be installed during the week of February 16th. Final proofs of the sign panel design are attached.

attachments: final proofs of sign panels

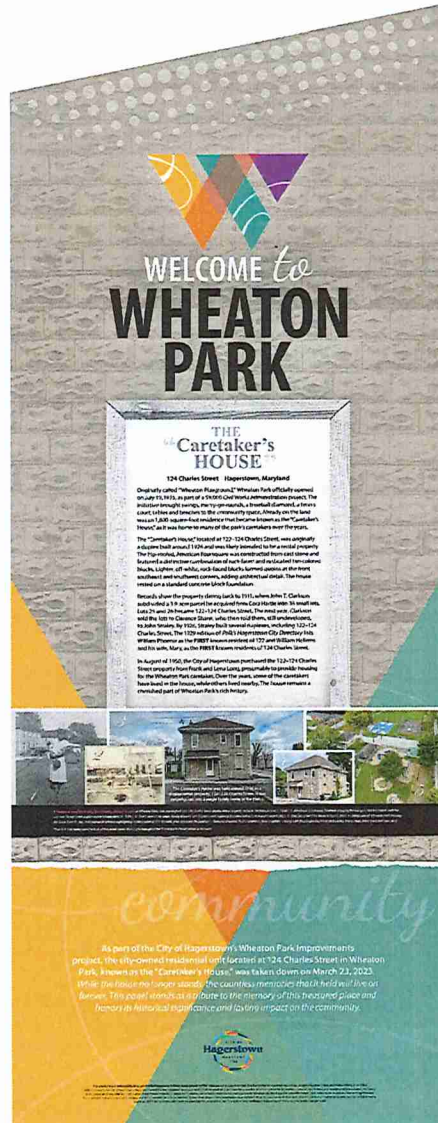
Panel 1

Panel 2

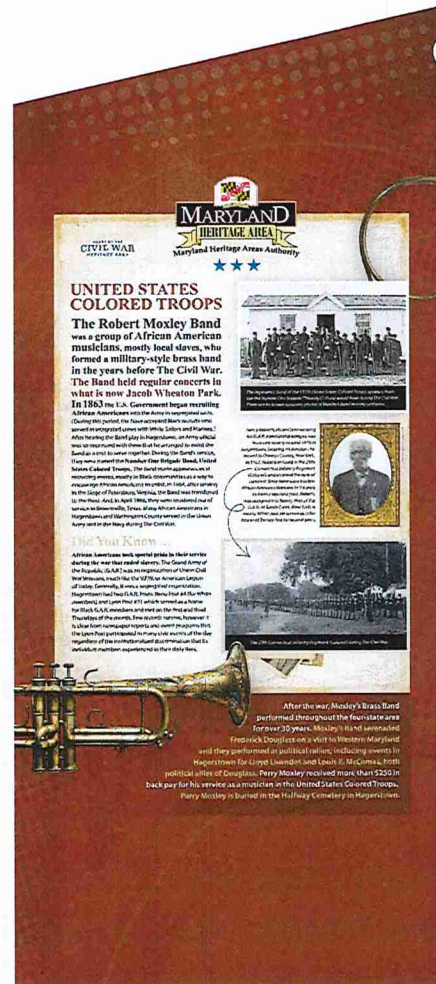
Panel 3



36"W x 84"H
(3' x 7')

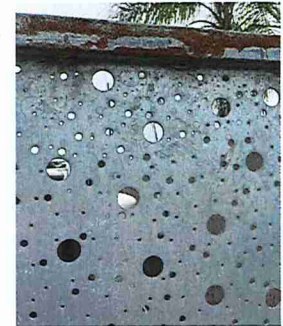


36"W x 96"H
(3' x 8')



36"W x 84"H
(3' x 7')

- Dot pattern on each panel above represents routing. Here's a sample image of what we envision.



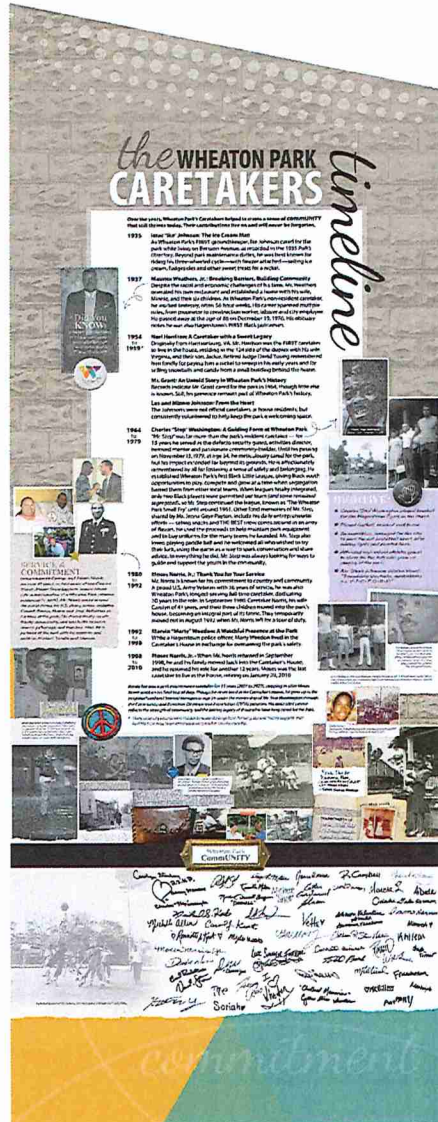
Panel 4 (backs panel 1)

Panel 5 (backs panel 2)

Panel 6 (backs panel 3)



36" W x 84" H (3' x 7')



36" W x 96" H (3' x 8')



36" W x 84" H (3' x 7')

- Dot pattern on each panel above represents routing. Here's a sample image of what we envision.



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

Topic:

Proposed Rezoning – ZM-2026-01 – Emmert Road and Trolley Drive – *Steve Bockmiller, Deputy Director Planning and Zoning Administration*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

021026_Trolley_Drive_MCC_briefing-01.pdf

Description

Proposed Rezoning- ZM-2026- 01



MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Stephen R. Bockmiller, AICP, Deputy Director for Planning and Zoning Administration

DATE: February 5, 2026

SUBJECT: Proposed Rezoning – ZM-2026-01 – Public Hearing Schedule for February 24, 2026.

Staff will attend the Mayor and City Council meeting of February 10, 2026, to provide an introduction and briefing on the above-mentioned rezoning application.

Background

The application consists of two properties – one which is zoned RMOD (Residential-Moderate Density) that fronts Emmert Road, and one that faces Trolley Drive, which is zoned CG (Commercial General). These parcels adjoin one another. The Applicant seeks to reclassify both properties to N-MU (Neighborhood-Mixed Use).

The Properties are bounded by CG (Commercial General) zoning to the north (Carmax) and east (a stormwater management facility and Hamilton Nissan). They are bordered to the south by the municipal boundary and lands in the unincorporated parts of the county. Across Emmert Road to the west is the Reese Farm subdivision currently under development (zoned R-MED – Residential Medium Density) and several homes that are also beyond the municipal boundary and in unincorporated lands in the county.

The City's Comprehensive Plan identifies the Trolley Drive Property as "Commercial General" on the Future Land Use Map. It identifies the parcel fronting Emmert Road is designated Medium Density Residential on the Future Land Use Map. This is more dense than the currently assigned RMOD Zoning.

Planning Commission Recommendation

The Planning Commission held a public review meeting on January 28, 2026 and will develop its recommendation on the reviewed the rezoning request on February 11, 2026, and this will be incorporated into the staff report the Mayor and City Council will receive in preparation for the hearing.

Next Steps

A public hearing will be held on February 24, 2026.

Attachment: Planning Commission Staff Report (Mayor and City Council Staff Report to be provided prior to hearing)



**TECHNICAL STAFF REPORT
INDIVIDUAL REZONING REQUEST**

Report Published:	January 22, 2026
Planning Commission Public Review Meeting:	January 28, 2026
Case Number:	ZM-2026-01
Applicant:	Trolley Drive, LLC
Applicant's Counsel:	Jason Divelbiss, Esq.
Property Owner:	Trolley Drive, LLC
Location:	East side of Emmert Road and west side of Trolley Drive
County Tax Map and Parcel:	Map 0318, Parcels 828 and 163
Deed Reference:	Liber 7693, Folios 0491 and 0495
Address:	115 Emmert Road and Trolley Drive
Area of Tract:	10.69 acres +/-
Area requested to be reclassified:	8.79 acres +/- (See Applicant's exhibit)
Current Zoning:	RMOD (Residential Moderate Density) and CG (Commercial General)
Proposed Zoning:	N-MU (Neighborhood Mixed Use)
Vicinity and Proposed Zoning Map:	See page 2.

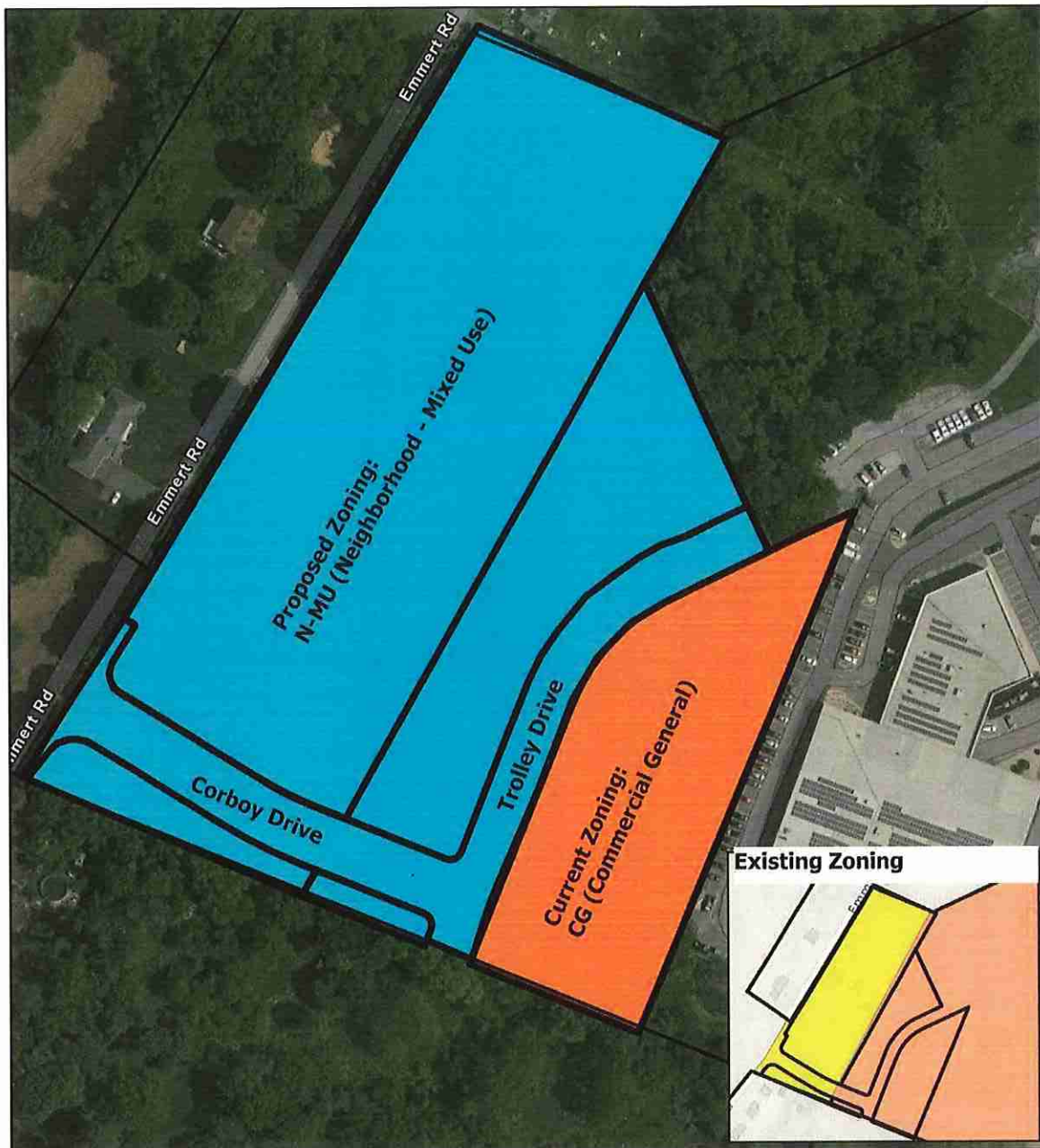
Description of Proposal:

The Applicant requests a zoning map amendment to rezone one parcel and part of a second that are located between Emmert Road and Trolley Drive. Parcel 828, which fronts Emmert Road, would be reclassified from RMOD (Residential Moderate Density) to N-MU (Neighborhood Mixed Use). A 2.52-acre portion of Parcel 163 that is west of Trolley Drive would be rezoned from CG (Commercial General) to N-MU Neighborhood Mixed Use). The remaining portion of Parcel 163 to the east of Trolley Drive, would remain in the CG District.

Executive Summary:

The Applicant asserts in their application that the proposed amendment is justified based on a change in the character of the neighborhood since the adoption of the 2019 Comprehensive Zoning Plan. Little argument was put forward regarding "mistake," but the applicant's addendum does not wholly surrender this argument either. If the rezoning is to be approved, amending the map to include this area in the N-MU District is the most appropriate designation.

Vicinity and Zoning Map:



0 195 390 US Feet



City Of Hagerstown

	ZM-2026-01		N-MU (Neighborhood-Mixed Use)
	Corporate Boundary		RMOD (Residential-Moderate Density)
Zoning District			
	CG (Commercial General)		



Proposal Narrative:

This rezoning application involves two adjacent properties located in two very different zoning districts. The rezoning is sought so that the properties can be developed uniformly as a single development. Both properties would be reclassified to N-MU (Neighborhood Mixed Use) which is a high-density district that permits (but does not require) a mixture of commercial and residential uses. There are few building setbacks and could be developed in a very dense manner. If approved by the Mayor and City Council, the tracts between Emmert Road and Trolley Drive and north of Corboy Drive would be uniformly located in the N-MU District.

The 1.9-acre portion of Parcel 163 that lies east of Trolley Drive would remain in the CG (Commercial General) Zoning District. The area to remain in the CG District is predominantly improved by a regional stormwater management facility.

Photographs of the Area to be Rezoned:



Photo 1: View north along Emmert Road viewing buildings on Parcel 828.



Photo 2: View south on Emmert Road from northwest corner of property (Parcel 828 on left).



Photo 3: View east along Corboy Drive from Emmert Road. Trolley Drive in background. Parcel 828 (RMOD Zoning) is in the foreground. Parcel 163 (CG Zoning) fronts Trolley Drive.



Photo 4: View from Corboy Drive showing Trolley Drive with the regional stormwater management facility and adjacent car dealership to the east.



Photo 5: View northeast on Trolley Drive toward Dual Highway. Carmax is to the left. The area to be rezoned is to the photographer's left rear.

Annexation and Zoning History:

A-1978-06 – Harrison-Londontowne-Tristate Annexation

The subject properties were annexed into the City on May 18, 1978, along with other holdings in the region other separate ownerships. The zoning assigned to the parcel that contained what is now these two properties was R1 (a precursor to the RMOD District). See the attached 1977 Zoning Map as amended to November, 1983. The annexation was conditioned on the City not taxing the property at more than agricultural assessment until the land develops.

Parcel 828 (Emmert Road) has retained the initially assigned R1 Zoning over time, with the district having been renamed RMOD (Residential-Moderate Density). Parcel 163 is part of an area that was subsequently reclassified to C2 (now known as CG – Commercial General).

S-2022-18 – 1921 Dual Highway Final Plat

In 2022 a final plat was created to create a lot for the recently constructed Carmax auto dealership on Dual Highway, and to create street rights-of-way to dedicate to the City. Parcel 163 is the remaining lands associated with that subdivision. A copy of this plat is an exhibit in this application.

Sketch, Development and Site Plans

Other than the plans and regional site work associated with the development of the adjacent Carmax dealership and new public streets, there are no approved sketch, development or site plans for either of these properties.

Adjacent Properties:

The municipal boundary follows part of this tract's boundaries to the north, west and south. Several of the adjacent properties are located outside of the municipality.

West

There are four properties to the west of Parcel 828, across Emmert Road. Three of them are in the County and two of those are improved with dwellings. The fourth is a former farm property that is currently under development for a townhouse community (Towns at Reese Farm) which is located within the City boundaries and is zoned RH (Residential High Density).

North

The area to the north, fronting Emmert Road is outside of the city boundaries and is improved with single-family detached dwellings and a pre-owned car sales facility which is located at the intersection of Dual Highway and Emmert and Hebb Roads. Within the city boundaries to the north and located west of Trolley Drive is a recently constructed pre-owned car sales facility (Carmax) located in the CG (Commercial General) Zoning District.

East

The area to the east of the properties to be rezoned, located across Trolley Drive, is improved with a chain car dealership and a regional storm pond which is part of Parcel 163, but will not be rezoned. These properties are in the CG (Commercial General) Zoning District.

South

There are two properties to the south that adjoin the two parcels subject to this application. Both are outside of the municipal boundaries. The one fronting Emmert Road is improved with a home and outbuildings. The one to the east of this is unimproved. A farm property is located to the south of these properties which fronts Beaver Creek Road.

Site Description:

The site consists of two parcels. Parcel 828, which fronts Emmert Road and assigned the address 115 is 6.27 acres in area. The entirety of the parcel is included in this request. This property is improved with a two-story, frame, single-family detached dwelling with attached two-car garage and two accessory buildings. Driveway access is from Emmert Road. The property is predominantly wooded. It is shown on the Future Land Use Map of the Comprehensive Plan for medium density residential development, which is more intense than the existing RMOD (Residential Moderate Density) Zoning assigned to it.

Parcel 163 is 4.42 acres in area and is the residue from a previous subdivision created with the development of the nearby Carmax dealership and dedication of right of way for Trolley Drive and Corboy Drive. The area to be rezoned is 2.52 acres located west of Trolley Drive. It is unimproved and designated Commercial General on the Future Land Use Map of the Comprehensive Plan.

The 1.9-acre portion of Parcel 163 (the "Trolley Drive" parcel) that lies east of Trolley Drive would remain in the CG (Commercial General) Zoning District. The area to remain in the CG District is improved by a regional stormwater management facility.

Floodplain:

No part of these properties is in the 100-year floodplain per the 2017 FEMA floodplain map for the city.

Roads:

Parcel 828 fronts Emmert Road, which is a narrow two-lane country road without shoulders and located within a 33-foot width right of way. Emmert Road connects to Dual Highway and to Beaver Creek Road. Trolley Drive and Corboy Drive are new subdivision roads constructed to City standards and their acceptance for City ownership is imminent. Corboy Road bisects both properties. Trolley Drive fronts Parcel 163 and provides direct access to Dual Highway. Corboy Road connects Trolley Drive and Emmert Road and forms a four-way intersection with the new principal entrance into the Towns at Reese Farm subdivision.

Water and Sewer Service:

Surrounding developments are served by Hagerstown's Water and Wastewater utilities. Development of this tract will be required to be served by City utilities.

Electric Service:

This tract is in the Potomac Edison service area. When the property develops, the streetlights will be serviced and maintained by the City Electric Department.

Fire and Police Service:

The subject properties have received protection provided by the Hagerstown Police Department since its annexation in 1978. First call station for fire protection is a dual assignment area assigned to the Funkstown Volunteer Fire Company and Hagerstown Fire Department Station 3 (Independent Junior Fire Company) on Eastern Boulevard.

Schools:

The subject tract is in the attendance area of the following schools:

High School:	South Hagerstown High School
Middle School:	E. Russell Hicks Middle School
Elementary School:	Eastern Elementary School/ Ruthann Monroe Primary School

Hagerstown has no Adequate Public Facilities Ordinance for school capacity. Consideration of school capacity when determining the outcome of planning and zoning proposals in the City may subject that decision to legal challenge if no objective standards are codified in City Ordinances. No such objective standards are currently in effect.

Agency Comments:

As of the publication of this report, these agencies stated they have no comment:

1. Washington County Health Department.
2. Washington County Soil Conservation District.
3. Hagerstown City Engineer
4. Hagerstown Department of Public Works (which includes Parks and Recreation).
5. Potomac Edison
6. Hagerstown Light Department

No response has been received from the Maryland State Highway Administration, Hagerstown Water Department and Wastewater Department, Washington County Public Schools, Hagerstown Fire Marshal or Washington County Planning. However we do anticipate comments being provided prior to your meeting by some of these agencies and any that are received will be provided to the Commission at the public review meeting.

Comprehensive Plan:

The area of this proposal that is zoned CG appears on the Future Land Use Map (Map 2-7) of the 2018 Comprehensive Plan with a designation of "Commercial General".

The area of this proposal zoned RMOD appears on that map with a designation of "Medium Density Residential", which allows density more intense than the currently assigned RMOD Zoning. The Comprehensive Plan describes the Medium Density Residential designation as follows:

Medium Density Residential areas recognize already-developed areas, located within or immediately adjacent to the city, as well as areas likely to be developed at medium densities. The purpose of RMED areas is to encourage a broad range of housing types, including single-family detached, duplex, and townhouse units. Most of the developed residential area in the city is Medium Density. Within these areas, the city will emphasize neighborhood stabilization and enhancement efforts, including the Neighborhoods 1st, Community's City Center Plan, and Comprehensive Neighborhood Revitalization initiatives (see those mentioned in the Housing and Neighborhoods Element).

The RMED area includes portions of the city currently zoned RMOD (Residential-Moderate Density, not to be confused with RMOD Future Land Use) and RMED (Residential – Medium Density). Residential densities in RMOD- and RMED- zoned areas will generally be between five (5) and ten (10) units per gross acre.

Neighborhoods characterized by single-family detached units would typically have lower densities, while duplexes and townhouses would have densities at the higher end of the RMED. RMED areas include some existing and potential future PUDs, where residential density may exceed ten (10) units per acre. PUDs are subject to careful design review to ensure compatibility with surrounding neighborhoods. Apartment units may be permitted in RMED PUDs, but would not otherwise occur in RMED areas. Mansion-house apartments are also permitted in this land use category, and existing apartment buildings are likely to remain as such.

The RMED area also includes portions of the city currently zoned RO (Residential-Office). The RO district allows office uses in large houses, and serves as a buffer between residential and commercial areas. Locations with RO zoning typically have a mix of residential and non-residential uses in buildings that are residential in character. Although not strictly residential in use, the RO zoning district as currently defined is consistent with the RMED future land use.

The Comprehensive Plan described the Commercial General designation as follows:

Commercial General indicates land designed to accommodate a broad range of commercial purposes, especially retail uses and personal services, ranging from individual stores to shopping centers. Within existing corporate boundaries these areas include much of the Dual Highway corridor, Maryland Avenue, Leitersburg Pike, and Wesel Boulevard. It also includes a number of smaller commercial areas such as those along Eastern Boulevard, Northern Avenue, West Washington Street, Frederick Street, and Burhans Boulevard. In the growth area, major CG concentrations include Valley Mall, Prime Outlets, and Pennsylvania Avenue.

The tract appears and is described on the following Comprehensive Plan maps:

1. Map 2-3: Planned and Future Development – Both parcels are identified on this map as "vacant land".
2. Map 2-5: Vacant and Underutilized Land – Identified as vacant.
3. Map 2-9: PlanMaryland Place Designations – Identified as a "Targeted Growth & Revitalization Area".
4. Map 4-1: Water and Wastewater Service Areas – Site shown as "Served by City"

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5. Sewer Lines and Treatment Plant.
Map 4-2: Water and Wastewater Priority Areas – Site shown as a “Priority 1” area.
 6. Map 4-3: Growth Tier Designations – Site shown as a Tier 1 area.
 7. Map 5-3: Long Range Transportation Plan Recommended Upgrades – Recommends widening of Dual Highway.
 8. Map 9-4: Future Park Needs – This site is within an area identified as being outside of a 0.25 mile radius from park space within the City. The nearest public park is Funkstown Park, which is approximately 1,500 feet from Parcel 828.

Development of these vacant lands is supported by multiple policies of the Comprehensive Plan. Most prominently, Policy 2-6 of the Plan states *Development and redevelopment of Hagerstown’s vacant and underutilized land will be an important part of the City’s overall growth management approach and as such is Priority 1 for City water and wastewater service.* The Plan also calls for the well-designed and coordinated development of unimproved tracts. Developing this area in accordance with N-MU Zoning Requirements could serve as an effective buffer between the commercial development along Dual Highway and new residential developments in the City and on the edges of nearby Funkstown.

Evaluation of Justification for Map Amendment:

Relation to the General Plan and the Zoning Regulations

The area to be rezoned is designated Commercial General and Residential Medium Density on the Future Land Use Map of the Comprehensive Plan. Development in accordance with current zoning will result in a mixed-use result within the boundaries of the area impacted by this application. The RMOD zoning is nearly exclusively residential (single-family homes, duplexes and semi-detached dwellings subject to minimum lot area requirements). The CG Zone is predominantly a commercial zoning district but does allow the construction of mixed-use buildings that include commercial uses and apartments, subject to design parameters.

The surrounding area is being developed for a mixture of uses, given the existing city and county zoning designations for the surrounding area. The Comprehensive Plan identifies this area as destined for a mix of commercial and residential uses. Numerous policies and maps of the Comprehensive Plan call for the thoughtful development of these properties given the surrounding existing built environment. The creation of the adjacent street to serve recent and anticipated development created a peculiar condition in the area between Trolley Drive and Emmert Road in relationship to the existing zoning district line.

Evaluation of the Petition Concerning the Change Rule

To substantiate a change in character of the neighborhood, the Applicant must establish the “neighborhood” boundary and specify the changes that occurred after the comprehensive zoning that altered the character of the “neighborhood”.

The Applicant has defined an arbitrary rectangle area as the “neighborhood that includes lands within the City, the town of Funkstown and unincorporated lands in the county. The area is roughly bounded by Interstate 70 to the south, Day Road to the east, Hebb Road to the north and the Funkstown subdivision known as “Gaver Meadows” and Funkstown Park to the west. Staff have no issue with this being defined as the “neighborhood”.

The Applicant frames their argument for “change” the following circumstances that justify the rezoning:

- Construction of Trolley Drive and Corboy Drive in 2025 providing a new direct connection between U.S. Rte. 40 (Dual Highway) and Emmert Road;
- Redevelopment of several existing single-family residences fronting along U.S. Rte. 40 (Dual Highway) in 2024 into a CarMax used car sales facility;
- Annexation into the Town of Funkstown (2019) and development (2020) of +/- 67 ac. located on the southside of Beaver Creek Road for one hundred fifty (150) single-family homes; and
- Approval and commencement of development in 2025 of the +/- 31 ac. Reese Farm located on the west side of Emmert Road for 124 single-family attached (townhome) units and 240 multi-family apartment units.

The Applicant opines *“In this case, because the Property is already split zoned with residential (RMOD) and commercial (CG) classifications, the mixed-use nature of the N-MU zoning is completely appropriate and suitable for the Property.... Additionally, given the Property’s proximity to both higher density townhome and multi-family residential projects and a significant, new roadway connection to U.S. Rte. 40 (Dual Highway), the ability to use the City’s traditional neighborhood design flexibility pursuant to the N-MU zoning classification is also appropriate and suitable for the Property and consistent with the uses and zoning classifications of the surrounding properties.”*

While the development of nearby property in accordance with its approved existing zoning often is not legal grounds alone when presenting argument for “change in the character of the neighborhood”, the combination of factors including that development, road construction and regional development where the zoning is not coordinated across three jurisdictions would seem to overcome this hurdle.

Evaluation of the Petition Concerning the Mistake Rule

In their attachment to this rezoning application, the Applicant includes a section addressing the “Mistake Rule”. This section consists of two limited paragraphs, and offers no substantial evidence of a mistake in the existing zoning that shows that the zoning authority erred when it adopted the comprehensive zoning map. The Applicant does state in their introduction that argument for the rezoning is weighted in the “change” argument, and not in the “mistake” argument.

Case Law Impact Regarding “Spot Zoning”

One issue that the applicant will need to address is the issue of “Spot Zoning.” There is no N-MU (Neighborhood-Mixed Use) zoned property adjacent to this site. This district is a hybrid commercial-residential district, and there are commercial as well as residential districts adjacent to these properties. The applicant has been asked by staff regarding this issue, and they will be prepared to explain certain facts that overcome the burden of “spot zoning.”

Appropriateness of Zoning District

Per the Zoning Ordinance, the N-MU District was created to:

- (1) Accommodate mixed-use buildings serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;
- (2) Allow for commercial uses of a scale and intensity compatible with a residential neighborhood;
- (3) Allow for exclusively residential buildings of a scale and intensity compatible with the City's traditional neighborhood building design;
- (4) Encourage development that exhibits the physical design characteristics of pedestrian- oriented, storefront-style shopping streets;
- (5) Provide flexibility for adaptive re-use of old, non-residential buildings in these areas; and
- (6) Promote the health and well-being of residents by encouraging physical activity, allowing for transportation alternatives, and providing for interaction of uses during day and evening hours.

Although it permits and promotes mixing commercial and residential uses, the N-MU district does not require commercial or residential elements. The logical location for commercial uses on this tract remains reserved in that portion of the property that faces Trolley Drive, if some commercial development is ultimately proposed (which is not required in the N-MU District). It does encourage the development in a manner that is consistent with the City's historic “grid” street patterns at urban densities.

Therefore, if the Planning Commission recommends and the elected body approves this map amendment request, the only appropriate district for it to be reclassified to is the N-MU District. The burden of proof is on the applicant to demonstrate “change” or “mistake.”

The act of amending the Zoning Map is a legislative act where the elected body acts in the interest of the general welfare of the City.

Stephen R. Bockmiller, AICP
Deputy Director for Planning and Zoning Administration
Department of Planning and Economic Development

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

Topic:

Proposed Rezoning - ZM-2026-02 – Eastern Boulevard and Leitersburg Pike – *Kristian Broche, Assistant Zoning Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

021026_Eastern_Bldv_MCC_briefing_-02.pdf

Description

Proposed Rezoning - ZM-2026-02-



MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Kristian Broche
Assistant Zoning Administrator

DATE: February 11, 2026

SUBJECT: Proposed Rezoning – ZM-2026-02 – Public Hearing Scheduled for February 24, 2026.

Staff will attend the Mayor and City Council meeting of February 10, 2026, to provide an introduction and briefing on the above-mentioned rezoning application.

Background

The subject property is a vacant parcel consisting of approximately ±3.65 acres located at the northeast corner of Eastern Boulevard and Leitersburg Pike. The property is currently zoned CL (Commercial – Local). The applicant requests to rezone the property to CG (Commercial General). The Property is bounded by CL (Commercial Local) and CR (Commercial – Regional) zoning to the north at Stone House Square Shopping Center and CR (Commercial – Regional) zoning to the west at Longmeadow Shopping Center. Residential zoning borders the property to the south across Eastern Boulevard (RMOD – Residential - Moderate Density) and to the east (RH – Residential - High Density).

The City's Comprehensive Plan identifies the Property as "Commercial General" on the Future Land Use Map and designates it as vacant or underutilized. The Property contains areas of steep topography, which limit the extent of developable land and reduce the practical buildable area to approximately ±1.0 acre unless substantial grading or retaining structures are constructed. Aerial photographs depict surrounding development consisting of established commercial uses and multi-lane roadways.

Planning Commission Recommendation

The Planning Commission held a public review meeting on January 28, 2026, and will develop its recommendation on the reviewed the rezoning request on February 11, 2026. The recommendation will be provided to the Mayor and City Council at their hearing on this matter.

Next Steps

A public hearing will be held on February 24, 2026.

Attachments: Planning Commission Staff Report (Mayor and City Council Staff Report to be provided prior to hearing)



TECHNICAL STAFF REPORT
INDIVIDUAL REZONING REQUEST

Report Published:	January 21, 2026
Planning Commission Public Review Meeting:	January 28, 2026
Case Number:	ZM-2026-02
Applicant:	Cornerview, LLC
Applicant's Counsel:	Jason Divelbiss, Esq.
Property Owner:	Cornerview, LLC
Location:	Northeastern corner of Eastern Blvd and Leitersburg Pike (Potomac Avenue)
City Tax Map, Block and Parcel:	Map 38, Parcels 0890
Deed Reference:	Liber 7669, Folio 409
Address:	Eastern Blvd
Area of Tract:	3.65 acres +/-
Area requested to be reclassified:	3.65 acres +/- (See Applicant's exhibit)
Current Zoning:	CL (Commercial Local)
Proposed Zoning:	CG (Commercial General)
Vicinity and Proposed Zoning Map:	See page 2.

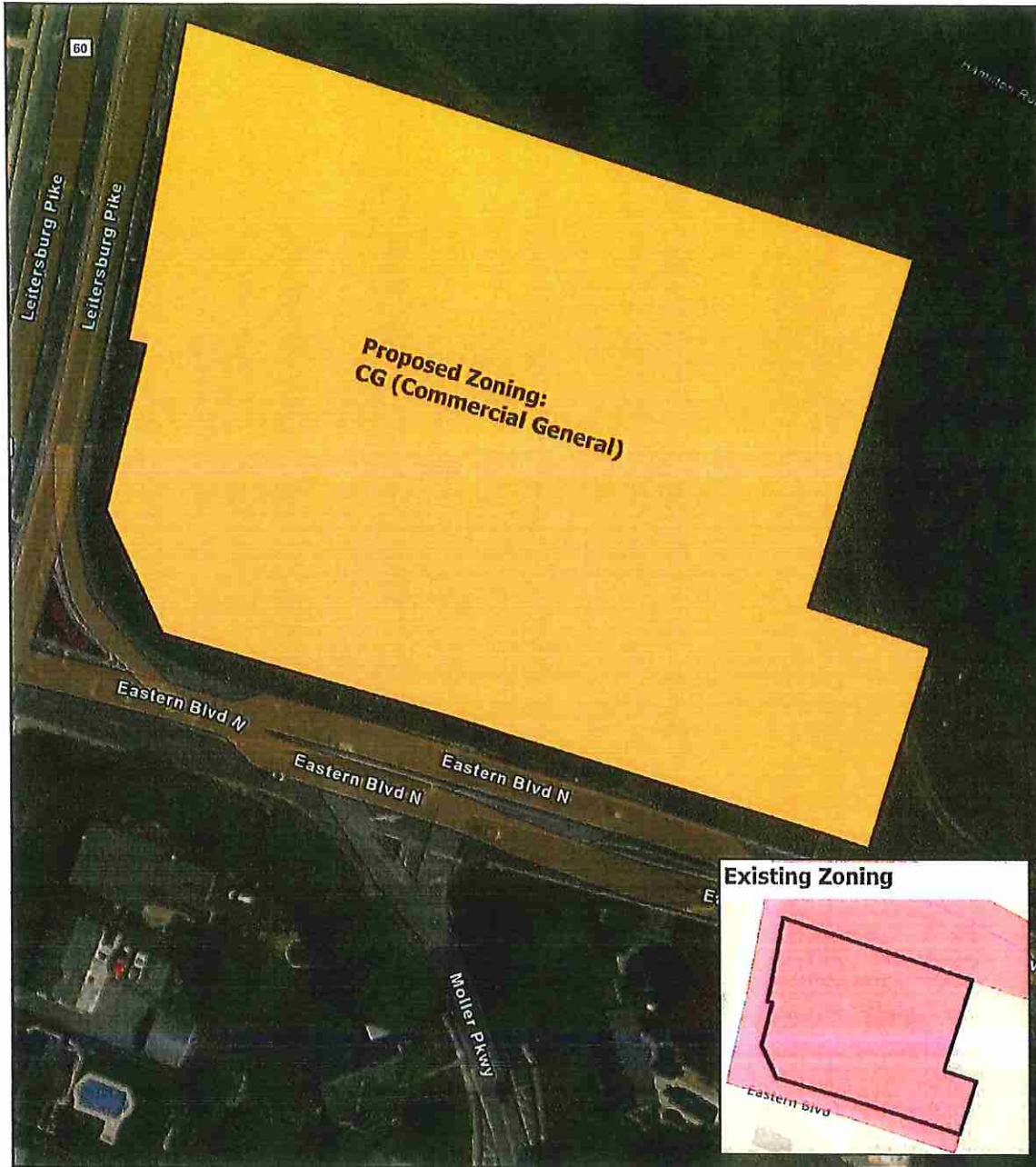
Description of Proposal:

The Applicant requests a zoning map amendment to rezone the subject property from CL (Commercial Local) to CG (Commercial General). This zoning map amendment application is not tied to a development proposal.

Executive Summary:

The Applicant asserts that the proposed zoning map amendment is justified by a mistake in zoning made during the 2020 Comprehensive Zoning, as the property's size, configuration, and topography limit its ability to be reasonably developed under the current zoning designation. In addition, the character of the surrounding neighborhood has changed since 2020 due to the significant intensification of nearby commercial development. If approved, rezoning the property to the CG District is likely the most appropriate designation, though CR (Commercial Regional) could be considered.

Vicinity and Zoning Map:



0 110 220 US Feet



City Of Hagerstown

	ZM-2026-02	Zoning District
	Corporate Boundary	CG (Commercial General)
		CL (Commercial Local)



Proposal Narrative:

The subject property is located at the northeast corner of Eastern Boulevard and Leitersburg Pike (Potomac Avenue) and consists of approximately ±3.65 acres. The Property is currently zoned CL (Commercial - Local) and is vacant. The Property is also identified on the Future Land Use Map of the City's Comprehensive Plan as "Commercial General." It is designated as vacant or underutilized, on the Vacant and Underutilized Land Use Map indicating the City's long-term intent for commercial development at a scale greater than currently permitted under the CL zoning.

The topography of the Property significantly limits the area that is suitable for development, with steep grades reducing the practical buildable area to approximately one acre unless substantial grading improvements and/ or retaining wall are included in the development of this site. The location of the Property at the intersection of major roadways and adjacent to established commercial uses demonstrates that a higher-intensity commercial zoning designation would be compatible with the surrounding land use pattern. Additionally, the site's visibility and access from these roadways support the potential for commercially viable development that aligns with the Comprehensive Plan's guidance for the area.

Photographs of the Area to be Rezoned:



Photo 1: View north along Eastern Blvd, North, showing the area to be rezoned to the right of the road.



Photo 2: View northeast from the intersection of Eastern Blvd and Leitersburg Pike. Area to be rezoned is to the left of Eastern Blvd, and on the right side of Leitersburg Pike.



Photo 3: View south from Leitersburg Pike, showing the area to be rezoned to the left of the road.

Annexation and Zoning History:

(ZM-1998-09) GEMCO Rezoning

GEMCO Development LLC requested rezoning from "A to C2". Staff and Planning Commission felt request was unsuitable and a less intensive classification would be more appropriate. Mayor and City Council concluded neither change nor mistake had been sufficiently demonstrated and denied the rezoning.

(ZM-2001-01) Evergreen Rezoning

Evergreen had applied to rezone 3.65 acres from the "A" Zoning District labeled the "AT" District to the "C1" Zoning District now labeled the "CL" District, citing change and mistake as the basis for the request. The Planning Commission had initially recommended approval, and the Mayor and City Council had adopted an ordinance to rezone the property to "C1". Opponents had challenged the decision in court, which found that the Council had not provided sufficient findings of fact to support the rezoning. After the case was remanded and reviewed through appeal, the Council ultimately determined that the change and mistake arguments did not justify the rezoning and reverted the property to "A" Zoning. Development had continued on the property, including construction of the YMCA and Stone House Square, as well as

review of multiple residential site plans. The zoning assignment and configuration of this property continued since the Council's reversion to "A1" Zoning.

(ZM-2009-02) 2009-10 Comprehensive Rezoning

The New Comprehensive Plan had been adopted, with a land use recommendation of commercial for the area. In 2009, Phase 2 of the Comprehensive Rezoning included this property. Staff and the Planning Commission had recommended rezoning to "C4" currently labeled the "CR" District to match the Stonehouse Square zoning to the north; however, the Mayor and City Council determined that a less intensive zoning was more appropriate and rezoned the property to "POM". Development had continued in the area of the property, including the construction of a new CVS and a new McDonald's at Longmeadow Shopping Center. The zoning assignment and configuration of this property had been in place since the Council's adoption of "POM" zoning.

(ZM-2019-01) 2018-20 Comprehensive Rezoning

The New Comprehensive Plan had been adopted on April 3, 2018, as visionHagerstown 2035, with a land use recommendation of "Business Employment" for the property. This recommendation was then amended to be classified as "Commercial General" on January 28, 2020 (R-20-01). In 2020, at the owner's request, the property had been included in the Comprehensive Rezoning and was rezoned to "CL" (Commercial Local) since attempts to market the site for POM uses were unsuccessful. Redevelopment of the area continued, including the redevelopment of the former Sears building for a Sheetz. The zoning assignment and configuration of this property had been in place since the 2020 rezoning.

Adjacent Properties:

West (Leitersburg Pike)

Properties adjacent to this site along Leitersburg Pike include a Sheetz gas station, a CVS Pharmacy, and Long Meadow Shopping Center. These properties are within the City and zoned "CR" (Commercial – Regional).

North (Leitersburg Pike)

The property adjacent to this site along Leitersburg Pike includes a vacant parcel within the flood plain of Hamilton Run that is improved with off - premises signs. This property is within the City and zoned "CL" (Commercial – Local).

East (Eastern Blvd)

Properties adjacent to this site along Eastern Blvd include Cortland Apartments improved with apartment complexes. Most of the area of this tract adjacent to Eastern Boulevard is a protected forest conservation area. These properties are within the City's "RH" (Residential – High Density) Zoning District.

South (Eastern Blvd)

Properties adjacent to this site across Eastern Blvd include single-family detached homes. These properties are within the City's "R-MOD" (Residential – Moderate Density) Zoning District.

Site Description:

The subject property consists of one parcel totaling approximately 3.65 acres located at the northeast corner of Eastern Boulevard and Leitersburg Pike. The property is unimproved and currently zoned "CL" (Commercial, Local). The site features a slope that drops approximately 25 feet from the southwest corner at the intersection of Eastern Boulevard and Leitersburg Pike to the northeast corner of the parcel, which limits the usable area to roughly one acre without significant grading or construction of significant retaining walls. The City's Comprehensive Plan designates the property as "Commercial General" and identifies it as a vacant or underutilized site. Aerial photographs illustrate the property's topography and physical constraints.

Floodplain:

Approximately 0.10 acres in the northeast of the parcel is designated 100-year floodplain on the 2017 FEMA floodplain map for the City.

Roads:

The property has approximately 300 feet of frontage along Leitersburg Pike and 450 feet along Eastern Boulevard, both classified as minor arterial roadways. Access is constrained due to limitations in establishing safe ingress and egress points to either Eastern Boulevard or Leitersburg Pike.

Water and Sewer Service:

Surrounding developments are served by Hagerstown's Water and Wastewater utilities. Development of this tract will be required to be served by City utilities.

Electric Service:

This tract is in the Hagerstown Light Department service area.

Fire and Police Service:

This tract has received protection provided by the Hagerstown Police Department since its annexation in 1943. First call station for fire protection is assigned to Engine 2 (Antietam Fire Company) located at 790 Potomac Avenue.

Schools:

The subject tract is in the attendance area of the following schools:

High School: North Hagerstown High School
Middle School: Northern Middle School
Elementary School: Potomac Heights Elementary School

Hagerstown has no Adequate Public Facilities Ordinance for school capacity. Consideration of school capacity when determining the outcome of planning and zoning proposals in the City may subject that decision to legal challenge if no objective standards are codified in City Ordinances. No such objective standards are currently in effect.

Agency Comments:

As of the publication of this report, these agencies stated they have no comment:

1. Potomac Edison
2. Washington County Soil Conservation District.
3. Hagerstown City Engineer
4. Hagerstown Department of Public Works (which includes Parks and Recreation).
5. Washington County Health Department.
6. Hagerstown Light Department
7. Hagerstown Fire Marshal
8. Washington County Planning.
9. Washington County Public Schools.

Agencies awaiting comment:

1. Hagerstown Water Department and Wastewater Department
2. Maryland State Highway Administration.

Any additional comments received prior to the public review meeting will be provided to the Mayor and City Council at that time.

Comprehensive Plan:

The area that is zoned CL appears on the Future Land Use Map (Map 2-7) of the 2035 Comprehensive Plan with a designation of "Commercial General", as it was amended on January 28, 2020 (R-20-01).

The Comprehensive Plan described the Commercial General designation as follows:

Commercial General indicates land designed to accommodate a broad range of commercial purposes, especially retail uses and personal services, ranging from individual stores to shopping centers. Within existing corporate boundaries these areas include much of the Dual Highway corridor, Maryland Avenue, Leitersburg Pike, and Wesel Boulevard. It also includes a number of smaller commercial areas such as those along Eastern Boulevard, Northern Avenue, West Washington Street, Frederick Street, and Burhans Boulevard. In the growth area, major CG concentrations include Valley Mall, Prime Outlets, and Pennsylvania Avenue.

The tract appears and is described on the following Comprehensive Plan maps:

1. Map 2-3: Planned and Future Development – CG zoned area identified as "Vacant land."
2. Map 2-5: Vacant and Underutilized Land – Identified as vacant.

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3. Map 2-9: Plan Maryland Place Designations – Identified as being in a “targeted growth & revitalization area”.
 4. Map 4-1: Water and Wastewater Service Areas – Site shown as “served by City sewer lines and treatment plan.
 5. Map 4-2: Water and Wastewater Priority Areas – Site shown as a “Priority 1” area.
 6. Map 4-3: Growth Tier Designations – Site shown as a Tier 1 area.
 7. Map 5-3: Long Range Transportation Plan Recommended Upgrades – No recommendations.
 9. Map 9-4: Future Park Needs – This site is within an area identified as being outside of a 0.25-mile radius from park space within the City.

Development of this vacant land is supported by multiple policies of the Comprehensive Plan. Most prominently, Policy 2-6 of the Plan states *Development and redevelopment of Hagerstown’s vacant and underutilized land will be an important part of the City’s overall growth management approach and as such is Priority 1 for City water and wastewater service.* The Plan also calls for the well-designed and coordinated development of unimproved tracts. The property is highly visible, but has remained undeveloped when classified as “CL” or “POM” for 16 years.

Evaluation of Justification for Map Amendment:

Relation to the General Plan and the Zoning Regulations

The area to be rezoned is designated Commercial General on the Future Land Use Map of the Comprehensive Plan. It is immediately adjacent to other areas that are zoned “CG” (Commercial General), “RH” (Residential - High Density), and R – MOD (Residential - Moderate Density) across Eastern Boulevard. The Future Land Use Map is a generalized map.

The area is intended for the development of the Commercial General category that specifically encourages non-retail, non-manufacturing uses (e.g. office and research), reflecting the national shift to a service-based economy. Even though the Future Land Use Map classifies this area as “Commercial General,” it is currently zoned “CL” (Commercial Local), and the applicant is proposing to change it to another commercial district, “CG” (Commercial General). In context of the overall tract, the proposed map amendment corrects an arbitrary decision made in the assignment of the zoning district boundary to this property. The Comprehensive Plan identifies this area as destined for Commercial General. Numerous policies and maps of the Comprehensive Plan call for the thoughtful development of this tract for a mixture of commercial uses. Thoughtful development of the tract as a whole is made difficult by adherence to a district boundary set in an arbitrary manner when the property was annexed nearly 50 years ago.

Evaluation of the Petition Concerning the Change Rule

To substantiate a change in character of the neighborhood, the Applicant must establish the “neighborhood” boundary and specify the changes that occurred after the comprehensive zoning that altered the character of the “neighborhood”.

In this case, the Applicant has defined the neighborhood as the area surrounding the Property, bounded by Cortland Drive to the north, Oak Hill Avenue to the west, Eastern Boulevard to the south, and the YMCA Property to the east. Streets and substantial physical barriers, such as Eastern Boulevard, are appropriately recognized as the geographic limits of the neighborhood for rezoning analysis.

Since the last comprehensive rezoning in 2020, numerous changes have occurred within this neighborhood. These include significant intensification of commercial development, such as the addition of pad sites at Longmeadow Shopping Center, development of Stone House Square Shopping Center, construction of the YMCA, and the redevelopment of the former Sears store into Sheetz. In addition, major improvements were made to the intersection of Eastern Boulevard and Leitersburg Pike, including widening to four travel lanes, installation of bike lanes, and construction of concrete medians.

Taken together, these changes have substantially altered the character of the neighborhood. The area has become more commercially active and capable of supporting a broader range of uses. As a result, the Property is now suitable for the wider spectrum of commercial uses permitted in the "CG" (Commercial, General) District, consistent with the purpose of providing locations for businesses of a general nature to serve the community.

However, the Maryland courts have regularly determined that developing land in accordance with the designation in the Comprehensive Plan and resulting zoning usually does not constitute a change in the character of a neighborhood since the last comprehensive rezoning. Staff questions the applicability of this and encourages the applicant to be prepared to justify its applicability to the Planning Commission and later the Mayor and City Council.

Evaluation of the Petition Concerning the Mistake Rule

To substantiate a mistake in zoning, evidence must show that the zoning authority erred when it adopted the comprehensive zoning map. When the Property was last comprehensively rezoned in 2020, the property owner requested "CG" (Commercial, General) zoning, but the request was denied, and the Property was zoned "CL" (Commercial, Local). At that time, the City did not fully consider existing conditions or reasonably foreseeable trends, including the Property's size, configuration, and topography, all of which present challenges to safe access and development.

For there to be a "mistake" at the time of the original zoning or last comprehensive rezoning, there must be evidence (i) that assumptions or premises relied upon were invalid or incorrect, or (ii) that existing facts, projects, or reasonably foreseeable trends were not taken into account, so that the zoning decision was based on an error or misapprehension and not merely a matter of judgment.

In this case, the City's access limitation did not adequately account for the Property's practical development limitations or the surrounding growth patterns identified in the Comprehensive Plan. The more limited uses allowed under CL zoning were not

sufficient to overcome the significant costs and challenges of developing the Property, which has remained undeveloped. By contrast, CG zoning would allow a broader spectrum of commercial uses that are both economically feasible and consistent with the community's needs.

The denial of CG zoning therefore reflects a clear mistake. The current zoning restricts logical, coordinated development and does not align with the Property's potential or the trends in the neighborhood. Correcting this mistake would allow wider opportunities for the Property to be developed in a way that serves the community and makes practical use of the site.

Appropriateness of Zoning District

Under Hagerstown's Zoning Ordinance, Article 4, the CG (Commercial General) District is intended to provide locations for businesses that serve the broader community. The Property's size, shape, and location at the intersection of Leitersburg Pike and Eastern Boulevard make it well-suited for this purpose.

Although the Property's topography and access requirements make smaller scale uses difficult. The range of commercial uses allowed in the CG District include larger restaurants, retail stores, professional offices, and health care services making development feasible and practical. These uses are better suited to the Property than the limited options allowed under the current CL (Commercial, Local) zoning.

In short, CG zoning fits the Property naturally. It allows viable development that aligns with the City's Comprehensive Plan, and reflects the growth and character of the surrounding neighborhood.

One issue that the applicant will need to address is the issue of "Spot Zoning." There is no "CG" (Commercial General) zoned property adjacent to this site. Rezoning to "CR" (Commercial Regional) is consistent with the Long Meadow Shopping Center across Leitersburg Pike and would eliminate this issue. Rezoning to "CR" may be inappropriate due to the size and access to this site and inappropriate for larger uses. Also, the applicant has been asked by staff regarding this issue, and they will be prepared to explain certain facts that overcome the burden of "spot zoning."

Therefore, if the Planning Commission recommends and the elected body approves this map amendment request, only appropriate district for it to be reclassified to is the CG District if the applicant successfully overcomes the spot zoning issue.

The burden of proof is on the applicant to demonstrate "change" or "mistake."

The act of amending the Zoning Map is a legislative act where the elected body acts in the interest of the general welfare of the City.

Kristian Broche
Assistant Zoning Administrator
Department of Planning and Economic Development

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

Topic:

Cable Franchise Contract Change Order – *Scott Nicewarner, City Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Cable_Franchise_Contract_Change_Order_2.10.26.pdf

Description

Cable Franchise Contract
Change Order



CITY OF HAGERSTOWN, MARYLAND

Donna Spickler

City Clerk

One East Franklin Street • Hagerstown, MD 21740

E-mail: dspickler@hagerstownmd.org

Telephone: 301.766.4183 • TDD: 301.797.6617 • Website: www.hagerstownmd.org

TO: Mayor and City Council Members
Scott A. Nicewarner, City Administrator

FROM: Donna K. Spickler, City Clerk ✓

SUBJECT: Change Order to Contract with River Oaks

DATE: February 6, 2026

River Oaks Communications Corporation is in the process of negotiating the cable franchise agreement with Antietam Broadband. A six month contract in the amount of \$ 49,500.00 was approved in April, 2026.

River Oaks is requesting additional funds due to the comprehensive Needs Assessment Report which includes equipment projections over the life of the next franchise.

This is an agenda item for your Work Session on February 10, 2026. If you have any questions, please let me know. Thank you.



PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
X	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
X	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
X	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

<p>(1) Department Director and Division Manager</p> <p><u>COMMENTS</u></p> <p style="text-align: center;"><i>Recommend Approval</i></p> <p><i>[Signature]</i> 2/5/26</p> <p style="text-align: center;">_____ Signature / Date</p>	<p>_____ Signature / Date</p>
<p>(2) Purchasing Agent</p> <p><u>COMMENTS</u></p> <p> </p> <p style="text-align: center;">_____ Signature / Date</p>	<p>_____ Signature / Date</p>
<p>(3) Chief Financial Officer</p> <p><u>COMMENTS</u></p> <p> </p> <p style="text-align: center;">_____ Signature / Date</p>	<p>_____ Signature / Date</p>
<p>(4) City Administrator</p> <p><u>COMMENTS</u></p> <p> </p> <p style="text-align: center;">_____ Signature / Date</p>	<p>_____ Signature / Date</p>

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
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	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS River Oaks and CBG Communications, Inc. has negotiated three contracts with Antietam Cable and one with Comcast. CBG will work as a subcontractor with River Oaks on this project.

Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Approve

Tyler Freier 4/15/25

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve - this will cross fiscal years. Adequate funding has been identified if needed in FY25. It is anticipated that funding overall will be included in FY26 Proposed budget.

Michelle Hepler 4/15/25

Signature / Date

(4) City Administrator

COMMENTS

Approve

Michelle Hepler 4/16/25

Signature / Date

River Oaks Communications Corporation

Denver Office:

10940 S Parker Road, Suite #766
Parker, Colorado 80134
Telephone: (303) 947-6133
E-Mail: bduchen@rivoaks.com

Colorado Springs Office:

710 Count Pourtales Drive
Colorado Springs, Colorado 80906
Telephone: (719) 339-4604
E-Mail: tduchen@rivoaks.com

April 11, 2025

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

Dear Scott:

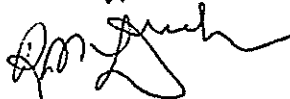
We are writing regarding the interest of the City of Hagerstown ("City") in entering into an agreement with River Oaks Communications Corporation ("River Oaks") to work on the City's behalf regarding the cable franchise renewal with Antietam Cable Television, Inc. ("Antietam"). A Scope of Work is attached to this letter agreement.

River Oaks shall invoice the City on a monthly basis for services as outlined in the Scope of Work. Payment shall be remitted by the City to River Oaks within thirty (30) days after receipt of River Oaks' invoice(s). CBG Communications, Inc. ("CBG") will work as a subcontractor with River Oaks on this project.

River Oaks is an independent contractor hereunder. This letter agreement sets forth the entire agreement between the parties concerning the subject matter hereof.

If all of the foregoing is acceptable, please sign below and return a copy of this letter agreement to us. River Oaks is pleased to be working again with the City.

Sincerely,



Robert M. Duchon
Vice President

Accepted and agreed to this 10th day of June, 2025.

City of Hagerstown

By:


Scott Nicewarner - City Administrator

SCOPE OF WORK

- A. Review the existing Cable Television Franchise Agreement dated November 11, 2014 ("Franchise Agreement") between the City and Antietam.
 - B. Review and verify for accuracy the DFOI I-Net Connections listed in Exhibit C to the Franchise Agreement.
 - C. Review and verify for accuracy the WAN/Cable Modem System Connections listed in Exhibit C to the Franchise Agreement.
 - D. Review and verify for accuracy the Complimentary Cable Drop/Services Locations listed in Exhibit D to the Franchise Agreement.
 - E. Review the City Code for cable television provisions.
 - F. Address the cable franchise renewal letter (Section 626 Letter), if any, from Antietam required under the Federal Cable Acts.
 - G. Review the Cable Television Franchise Agreement between the City and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC dated November 22, 2022 for comparative purposes.
 - H. Conduct negotiations with Antietam under the Informal Franchise Renewal Process of the Federal Cable Acts.
 - I. Analyze utilization of the current I-Net by DFOI Users and determine if additional locations and connectivity are needed.
 - J. Update, as necessary, all of the Exhibits to the existing Franchise Agreement with Antietam.
 - K. Hold one (1) Town Hall meeting so that interested stakeholders (residents, businesses, K-12 schools, Hagerstown Community College, Access producers and others) can voice their opinions regarding Antietam's services.
 - L. Ascertain the City's Educational and Governmental Access needs (channel capacity, equipment, studio, EG Fees, etc.) for the new Cable Franchise.
 - M. Participate in franchise negotiations meetings/phone calls with the City and Antietam.
 - N. Prepare the new Antietam Cable Television Franchise Agreement for City Council consideration and approval.
 - O. Incorporate City Council input and finalize the new Franchise Agreement.
 - P. Provide other consulting services as requested by the City.
-

Fees and Expenses

The projected cost for this off-site work for River Oaks is \$24,050 (74 hours) plus expenses. The projected cost for off-site work (plus one on-site visit) for CBG Communications is \$24,750 (150 hours). Expenses are projected to be \$1,150. The total projected cost for this project is \$49,950, including 1 trip to the City for the EG access visit and Town Hall meeting. It is anticipated that our work on this project will take six (6) months to complete and is subject to the cooperation and responsiveness of Antietam. If the project lasts longer than six (6) months, any supplemental hours would be subject to the mutual written agreement of the parties.

The Scope of Work does not cover the formal franchise renewal process, a technical review of the cable system, a franchise fee audit, a subscriber survey, focus groups or other components that could be included in cable franchise renewals.

It shall be the City's decision whether or not to enter into a new Cable Franchise Agreement with Antietam.

Reimbursable Direct Costs

- Outside Clerical
- Travel (upon request)

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

Topic:

Easements for Murals and 2026 Event Update – *Brittany Arizmendi, Director of Community Engagement*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Easements_Murals_2026.pdf

Description

Murals 2026



CITY OF HAGERSTOWN, MARYLAND

Office of Community Engagement
1 E Franklin Street, Suite 210A, Hagerstown, MD 21740

TO: Scott Nicewarner

FROM: Brittany Arizmendi, Community Engagement Officer

DATE: February 10, 2026

SUBJECT: *Together We Create* Community Murals – 2026 Hagerfest Music & Art Festival

Together We Create is a large-scale collaborative mural initiative proposed for the heart of the Hagerstown Arts & Entertainment District at Meritus Park. The project brings together 10 artists and community groups to design and paint multiple murals that reflect creativity, diversity, and shared community pride.

The murals aim to:

- Celebrate artistic expression through a multi-artist, multi-organization collaboration.
- Engage residents of all ages and backgrounds in public art.
- Beautify a highly visible space that welcomes more than 150,000 annual park visitors.
- Strengthen community identity by making local voices and stories visible.
- Local artists and community groups will be prioritized for this project
- WCAC and MSAC grant funds will directly support artist stipends.

Impact

Together We Create will serve residents, visitors, youth, artists, and businesses by transforming a central district space into a vibrant cultural landmark. The project reinforces Hagerstown's commitment to accessible arts programming while activating one of the most visited areas of the district.

Next Steps

Pending approval, staff will finalize artist selection, schedule production dates, coordinate community engagement activities, and prepare marketing and unveiling plans.

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A LICENSE AGREEMENT BETWEEN THE CITY OF
HAGERSTOWN AND 2023 SUMMIT, LLC,
TO PERMIT THE CITY OF HAGERSTOWN TO INSTALL
AND MAINTAIN PHOTO MURALS AND WALL MURALS IN CONNECTION
WITH THE HAGERSTOWN CULTURAL TRAIL**

RECITALS

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

WHEREAS, the City intends to purchase and maintain a series of photo murals (“the Photo Murals”) for the enjoyment and benefit of the public in connection with the Hagerstown Cultural Trail being developed by the City of Hagerstown; and

WHEREAS, the City intends to create and maintain a mural (“the Retaining Wall Murals”) for the enjoyment and benefit of the public in connection with the Hagerstown Cultural Trail being developed by the City of Hagerstown; and

WHEREAS, the Photo Murals and the Retaining Wall Murals are hereinafter collectively referred to as “the Artwork;”

WHEREAS, 2023 Summit, LLC, a Maryland limited liability company, has agreed to permit the City to utilize a portion of its property to create and maintain the Artwork for the use, enjoyment, and benefit of the public in connection with the adjacent Hagerstown Cultural Trail;

WHEREAS, in order to install and maintain the Artwork, it is necessary for the City of Hagerstown to acquire certain rights with respect to the said property, which rights are further described in the attached License Agreement (already dated and executed by 2023 Summit, LLC) and further depicted on Exhibit A to said License Agreement;

WHEREAS, 2023 Summit, LLC, has generously offered to grant the City a license agreement on the wall and the immediate vicinity on its property for the installation and maintenance of the Artwork; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to enter into this License Agreement.

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

1. That the Mayor be and is hereby authorized to execute and deliver the License Agreement between the City and 2023 Summit, LLC, a copy of which (already dated and executed by 2023 Summit, LLC) is attached hereto and incorporated herein by reference and to act as signatory on behalf of the City on any documentation necessary to effectuate the purpose of this resolution.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

William B. McIntire, Mayor

Date of Introduction: February 24, 2026
Date of Passage: February 24, 2026
Effective Date: February 24, 2026

PREPARED BY:
SALVATORE & MORTON
CITY ATTORNEY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, made as of this 14th day of January, 2026, by and between 2023 SUMMIT, LLC, a Maryland limited liability company, hereinafter referred to as "Grantor", and the City of Hagerstown, a Maryland Municipal Corporation, hereinafter referred to as "Grantee."

WHEREAS, by virtue of a deed dated January 10, 2024 and recorded among the land records for Washington County at Liber 7388, folio 30, Grantor is the owner of certain real estate known as 100 Summit, Hagerstown, Washington County, Maryland, said property being more particularly described and depicted in the attached Exhibit A, DRAWING NO. 75-183-01, dated 12-9-25, which exhibit is incorporated herein by reference (the "Property"); and

WHEREAS, Grantor has agreed to permit Grantee to utilize the eastern and northern sides of the chain link fence atop the retaining wall as depicted on Exhibit A to create and maintain photo murals for the use, enjoyment, and benefit of the public in connection with the adjacent Hagerstown Cultural Trail developed by the Grantee ("Photo Murals"); and

WHEREAS, Grantor has also agreed to permit Grantee to utilize the eastern and northern faces of the retaining wall to create and maintain murals for the use, enjoyment, and benefit of the public in connection with the adjacent Hagerstown Cultural Trail developed by the Grantee ("Retaining Wall Murals"); and

WHEREAS, the Photo Murals and the Retaining Wall Murals are hereinafter collectively referred to as "the Artwork;"

WHEREAS, in order to create, install and maintain the Artwork, it is necessary for Grantee to acquire certain rights with respect to the Property, which rights are described hereinafter and the extent thereof further depicted on Exhibit A; and

WHEREAS, Grantor has agreed to grant the said license.

NOW, THEREFORE, THIS LICENSE AGREEMENT WITNESSETH:

That the foregoing recitals be and are incorporated herein as if restated verbatim.

That for and in consideration of the above premises, for no monetary consideration but for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the said Grantor does hereby grant and convey unto the said Grantee a license as follows:

GRANTOR DOES GRANT unto Grantee a license in and the right to use that portion of Grantor's Property shown on and to the extent depicted on Exhibit A, limited to the eastern and northern sides of the chain link fence atop the retaining wall and the eastern and northern faces of the retaining well for the creation and maintenance of the Artwork.

AND GRANTEE AND GRANTOR do hereby covenant and agree that the granting of this license is subject to the following additional rights and obligations:

1. Grantor will permit Grantee, its employees, agents, contractors and artists to install the Artwork on site in accordance with the design and techniques *approved by Grantor in advance*.

2. Grantor will allow the Artwork to remain unchanged and unobstructed and will not permit new construction, landscaping or other improvements on the property that will obstruct or prevent the viewing of or the Artwork.

3. If it so desires, Grantee will install the appropriate lighting on the Artwork at the Grantee's sole cost and expense.

4. Grantee at its sole cost and expense, and upon reasonable notice to Grantor, shall ensure that the Artwork is cleaned periodically as needed. In addition, if necessary as a result of degradation, graffiti or damage to the Artwork, Grantee will provide for the removal, repair and replacement, all at the Grantee's sole cost and expense.

5. This License Agreement shall run with the land and shall be binding upon the Grantor's successors, heirs, transferees and assigns. The rights granted to Grantee under this License Agreement shall be exclusive to the Grantee, who shall not have the right to assign its rights under said Agreement.

6. Grantor may, in its sole discretion, terminate this License Agreement in writing upon no less than ninety (90) days' written notice to the Grantee. In such event, the Grantee shall have the right to remove the Artwork, at its own expense.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the day, month and year first above-written.

ATTEST:

GRANTEE
CITY OF HAGERSTOWN

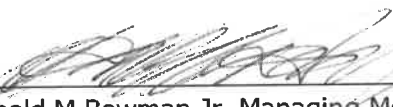
Donna K. Spickler, City Clerk

By: _____
William B. McIntire, Mayor (SEAL)

WITNESS:

GRANTOR
2023 SUMMIT, LLC


Justin Anderson

By:  (SEAL)
Donald M Bowman Jr, Managing Member

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I hereby certify that on the 26th day of January, 2026, before me, the subscriber, a notary public of the State of Maryland, in and for Washington County, personally appeared Donald M Bowman Jr, Managing Member of 2023 SUMMIT, LLC, Grantor, party to the within License Agreement, and he acknowledged the same to be the act of said Grantor and that the consideration was as set forth herein.

WITNESS my hand and seal:


NOTARY SEAL

THOMAS OLIVER BRITNER
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 8, 2029

Notary Public
My Commission Expires: 11/8/2029

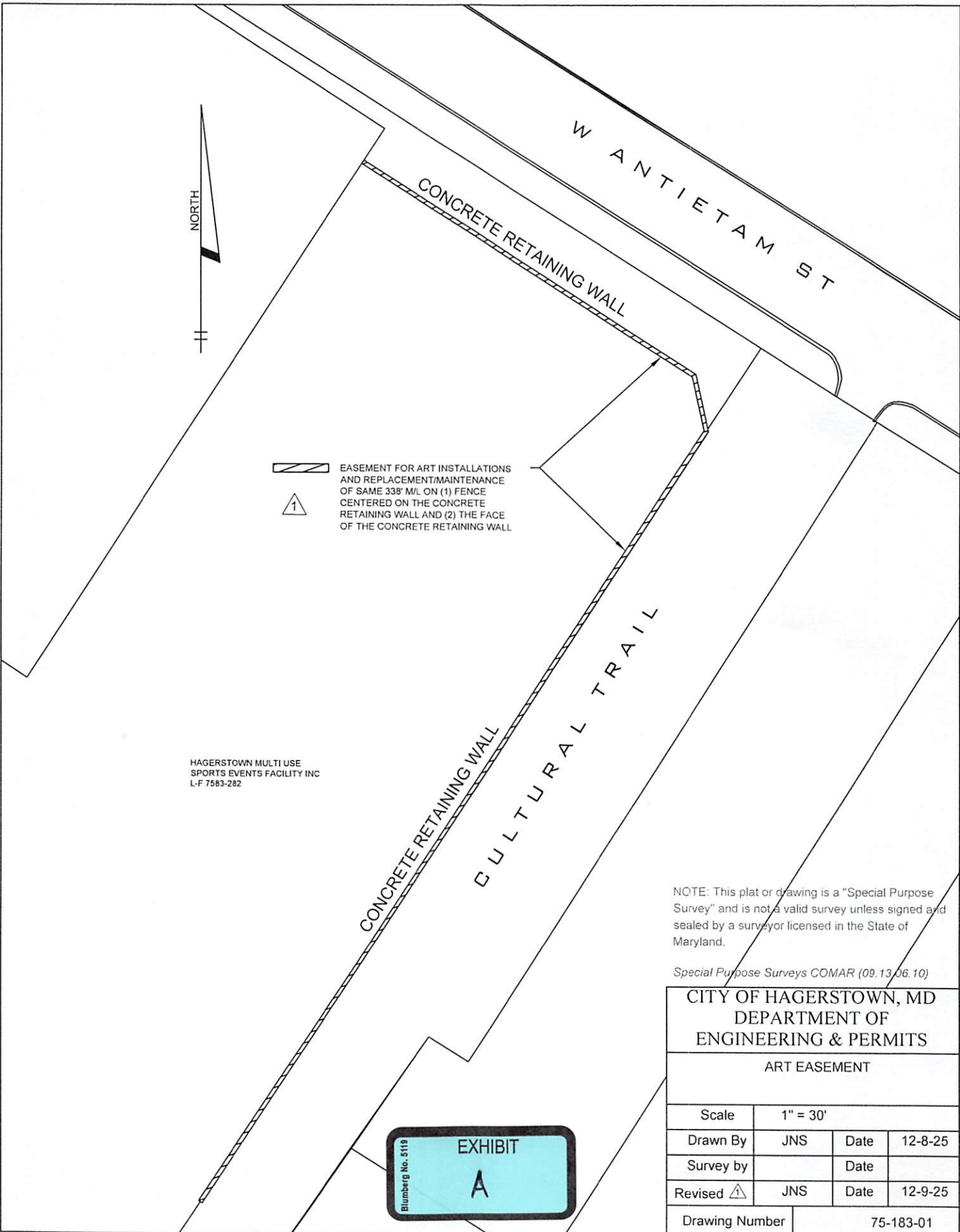
STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I hereby certify that on the _____ day of _____, 2025, before me, the subscriber, a notary public of the State of Maryland, in and for Washington County, personally appeared William B. McIntire, Mayor of the City of Hagerstown, Maryland, a Maryland Municipal Corporation, party to the within License Agreement, and he acknowledged the same to be the act of said Grantee, and that the consideration was as set forth herein.

WITNESS my hand and seal:

NOTARY SEAL

Notary Public
My Commission Expires



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

Topic:

Open Container Permits for 2026 – *Brittany Arizmendi, Director of Community Engagement*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

2026_Open_Container_Exemption_for_2026_Downtown_Events_(003).pdf	Open Container Exemption 2026
--	-------------------------------



CITY OF HAGERSTOWN, MARYLAND

Office of Community Engagement
1 E Franklin Street, Suite 210A, Hagerstown, MD 21740

TO: Scott Nicewarner

FROM: Brittany Arizmendi, Community Engagement Officer

DATE: February 10, 2026

SUBJECT: Open Container Exemption for 2026 Downtown Events

Staff is requesting Mayor and Council approval for exemption to the Open Container Act for multiple downtown events where alcohol is being requested.

Action Requested

Staff seeks approval of the following exemptions at the February 24, 2026, Regular Session:

Downtown Hagerstown Main Street/A&E District Events

Hagerfest Music & Art Festival (University Plaza)

- Saturday, May 2, 2026

MDWK Music & Market (University Plaza)

- Wednesday, July 15, 2026
- Wednesday, July 22, 2026
- Wednesday, July 29, 2026
- Wednesday, August 5, 2026
- Wednesday, August 12, 2026
- Wednesday, August 19, 2026

Battle of the Burgers (Unit Block of South Potomac Street)

- Saturday, September 12, 2026

Main Street Maryland Conference (University Plaza)

- Monday, October 5, Tuesday, October 6 & Wednesday, October 7

Outside Organizations

***NEW* One Love Festival (University Plaza)**

- Saturday, April 24, 2026

Porchfest (Prospect Street)

- Saturday, May 16, 2026

***NEW* Battle of the Cheesesteaks (Central Parking Lot)**

- Saturday, May 16, 2026

McIlhenny Chili Cookoff (University Plaza)

- Sunday, May 17, 2026

Wine & Latin Festival (University Plaza)

- Saturday, May 23 and Sunday, May 24, 2026

Caribbean Carnival (Unit Block of S. Potomac Street)

- Saturday, July 4, 2026 or Sunday, July 5, 2026

Christkindl Markt (University Plaza)

- Friday, December 11 & Saturday, December 12, 2026

Application/permits will be submitted for Mayor's signature at least one month in advance of the event.

Per the City of Hagerstown's Open Container Law, the Mayor and City Council may permit the possession of alcoholic beverages in open containers on the streets, lanes, alleys, sidewalks, parking lots or public ways of the City during special events upon application or upon its own initiative.

If approved by the Mayor and City Council, the applicants will go to the Liquor Board for review and final approval. They will be requesting One Day Event Licenses, which allow a non-profit, society, corporation, organization, or association to serve and sell alcoholic beverages at a non-licensed establishment, with fencing surrounding the area, if outside.

The City's Logistics Committee (representatives from Community Engagement, Public Works, Engineering/Parks & Recreation, Police, Fire, Utilities, and HR/Liability) review all facets of these events to ensure compliance, safety, and to create conditions for optimal event outcome. All applicants will provide the City with a Certificate of Insurance naming the City of Hagerstown as additional insured on a \$2 million policy.

SAMPLE

APPLICATION/PERMIT

The undersigned does hereby make application to the City of Hagerstown, Maryland, to utilize the property/facilities of the City more particularly described as follows:

University Plaza(see Attachment A)

on the following dates:

April 26, May 24, June 21, June 27, and September 27, 2024

The term applicant is defined as any person, firm, corporation or legal entity of whatsoever nature or kind on whose behalf this application is being made and permit granted.

The applicant acknowledges that the premises shall be used solely for the purpose of:

Hub City Brewery will be holding the liquor license during the Decades Music series taking place in University Plaza on Friday, April 26, May 24, June 21, July 26, and September 27, from 6:00 pm to 8:00 pm. Hub City Brewing LLC will be the sole provider and server of alcohol sales and will only be selling to those who are of legal drinking age.

The signatory to this application certifies that he/she has the authority to make this application and execute this agreement on behalf of:

Applicant Name: Hub City Brewery
Applicant Address: 25 W Church Street, Hagerstown, MD 21740

and to bind said person, firm or legal entity to the terms hereof. The signatory hereto represents and agrees that in the event that he/she does not have such authority, then and in said event, the signatory hereto is solely responsible and bound by all of the terms and conditions of this application, permit and agreement.

The undersigned signatory, on behalf of the applicant, agrees that he/she/it shall:

1. Abide by all rules applicable to the facility utilized and/or any promulgated by the City and contained in this application (See Attachment B).
Abide by all Statues, Acts, Ordinances, and Regulations applicable to the use of the area.
2. The applicant does hereby agree that if necessary he/she/it shall be responsible for and
3. obtain all necessary permits, licenses, or any other matters required in connection with the function and/or use of the premises and does hereby agree to hold the City, its servants, agents and employees harmless from any suits, demands, claims, expenses or fines that may arise directly or indirectly from such use of the premises.
The applicant does hereby agree that it shall be responsible for the costs of all City services incurred in connection with the event.
The applicant agrees that he/she/it shall furnish and does furnish upon the execution of
4. this application and agreement certificates of insurance with coverage adequate within the absolute discretion of the City. The applicant further agrees that the City shall be placed upon any liability policy or any other policies of whatsoever nature or kind applicable to the
5. function as an additional insured. The applicant agrees to hold harmless and indemnify the City, its agents, servants, representatives, officials and employees from any and all

claims, expenses, suits, demands, losses or costs of whatsoever nature or kind arising directly or indirectly from the use of the premises described. The Applicant shall abide by all rules applicable to the facility utilized and/or promulgated by the City and contained in this application. (see Attachment B)

6. The applicant further agrees that the premises shall be vacated by the applicant in the same condition as when occupied and if any damage has been done by the applicant or attendees of any function, the applicant shall be responsible for and reimburse the City for repairs, cleaning, and any other expenses incurred as a result thereof.

7. It is understood by the applicant that this permit is subject to all of the terms, obligations, conditions and reservations set forth in this agreement and any attachments which are incorporated by reference. In the event there are any conflicts between this document and any attachments the terms set forth herein shall govern and prevail.

Date: _____

Name of Applicant: David Blackmon

By: _____

Address: 25 W Church Street
Hagerstown, MD 21740

Telephone: 301-401-1273

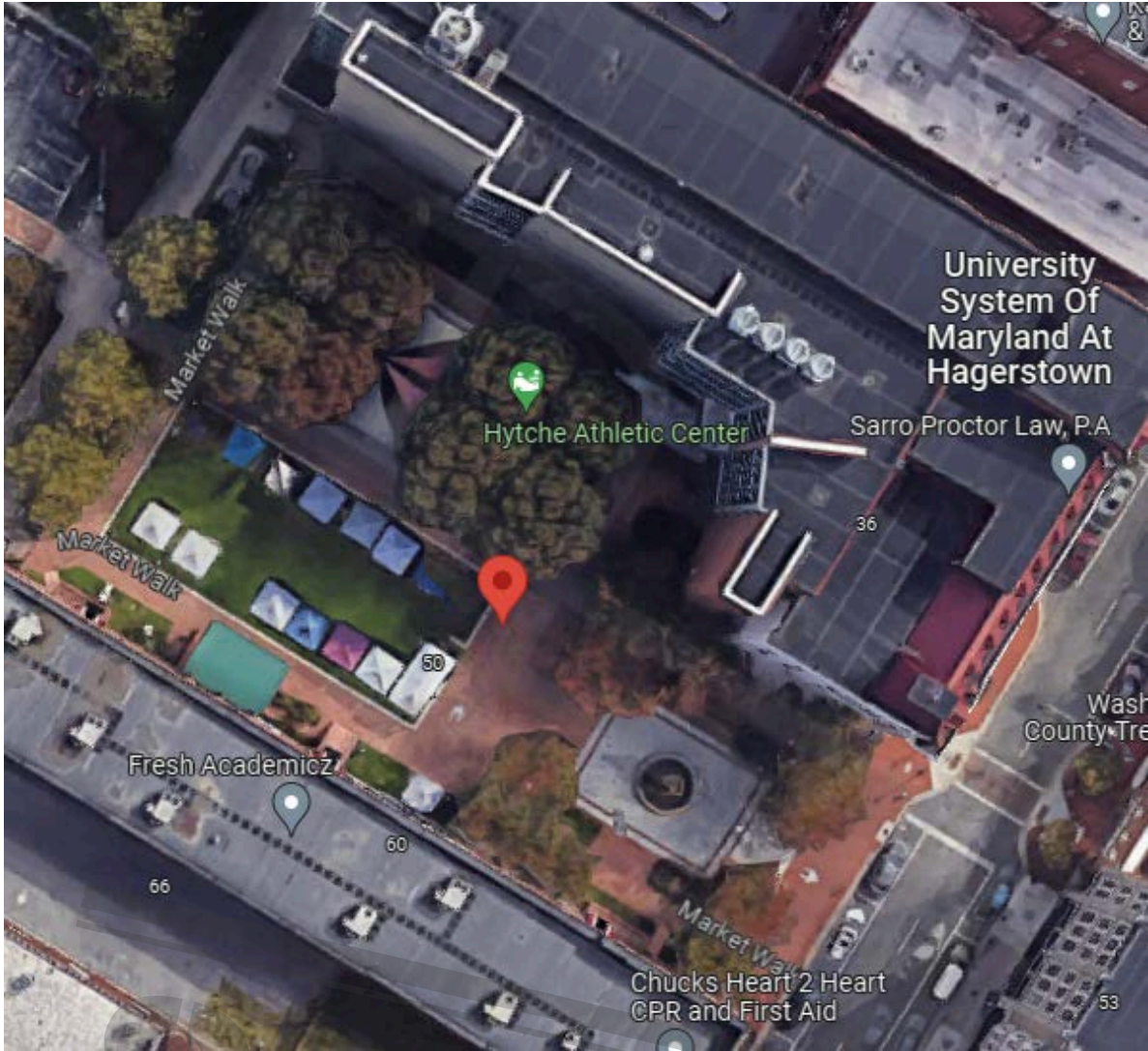
ACCEPTANCE

The foregoing application for permit is hereby accepted and granted by the City of Hagerstown, Maryland, by its duly authorized and designated representative. This permit is being granted upon all of the terms and conditions set forth above which are incorporated herein by reference. A violation of any of the conditions set forth above may result in an immediate revocation of said permit.

CITY OF HAGERSTOWN, MARYLAND

By: _____

ATTACHMENT A



ATTACHMENT B

It is understood by the applicant that this permit is subject to the terms and conditions below.

1. University Plaza is leased for no cost to the City of Hagerstown on Friday, April 26, May 24, June 21, July 26, and September 27, 2024 from 1:00 pm to 9:00 pm for set-up, event, and clean-up.
Hub City Brewery is licensed to serve alcohol in University Plaza can serve alcoholic beverages
2. and will limit this activity to individuals who are legally able to drink alcohol, have the event beverage cup, and are in University Plaza.
Hub City Brewery will sign this permit and Hold Harmless Agreement, as well as provide insurance on a two million dollar (\$2,000,000) insurance policy.

3.

**CITY OF HAGERSTOWN
HOLD HARMLESS AGREEMENT**

Lessee/User: Hub City Brewery
Event/Use: DECADES Music Series
Location: University Plaza - 50 W Washington Street
Date(s) of Use: Friday, April 26, May 24, June 21, July 26, and September 27, 2024
from 6:00 pm to 8:00 pm,

The Lessee/User agrees that it shall indemnify the City of Hagerstown and hold harmless the City of Hagerstown against any and all fines, suits, claims, demands, expenses, actions, losses, alleged losses, or liabilities of whatsoever nature or kind incurred either directly or indirectly either in law or equity, paid, suffered or incurred as a result of the acts, activities, or omissions of the Lessee/User, its agents, servants, or employees, due to the operation and use of the premises. It is further agreed that the Lessee/User shall in addition to holding the City of Hagerstown harmless from any and all liabilities or damage or injury to both persons and property, occurring as a result of the use of said premises, shall defend The City of Hagerstown at Lessee's/User's expense against any and all claims, suits, demands, of whatsoever nature or kind.

Witness: _____

Hub City Brewery
Lessee/User

Witness: _____

By (Signature and Title)

Date: _____

25 W Church Street
Address Hagerstown,
MD 21740 City, State,
Zip _____

301-401-1273
Phone

Return to:

Brittany Arizmendi
Community Engagement Officer
City of Hagerstown
301-739-8577 Ext 344
240-500-4582 (cell)
301-766-4258
barizmendi@hagerstownmd.org