

Mayor and Council

15th Special Session, Work Session, and Executive Session

May 9, 2017

Agenda

*"A diverse, business-friendly, and sustainable community with clean, safe and strong neighborhoods."
"Providing the most efficient and highest-quality services as the municipal location of choice for all customers."*

"People may hear your words, but they feel your attitude."

John C. Maxwell

4:00 PM WORK SESSION

1. Proclamation: Washington County Teen Pregnancy Prevention Month - *Carroll Laurie & Jim Kercheval, Washington County Teen Pregnancy Prevention Coalition*
- 4:05 PM** 2. Hagerstown Neighborhood Development Partnership, Inc. - 2006-2016 - *Morgan Plummer, Director*
- 4:20 PM** 3. FY 2017/18 Budget Review - *Valarie Means, City Administrator; Michelle Hepburn, Director of Finance*
- 5:20 PM** 4. FY 18 Community Legacy and Strategic Demolition Fund Applications - *Kathleen Maher, Director of Planning and Code Administration; Alex Rohrbaugh, Planner*
- 5:35 PM** 5. Rezoning - Old Towne Development LLC, 613 West Washington Street - *Kathleen Maher, Director of Planning and Code Administration; Alex Rohrbaugh, Planner*
- 5:50 PM** 6. Amendment to Water and Wastewater Policy - *Kathleen Maher, Director of Planning and Code Administration*
- 6:00 PM** 7. Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan - *Karen Paulson, Director of Human Resources; Susan Delauter, Benefits and Wellness Administrator*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

SPECIAL SESSION

- 6:15 PM** 1. Introduction of an Ordinance: Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan
2. Approval of a Resolution: Financial Incentive Agreement with Ares Investment Group, LLC

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

Topic:

Proclamation: Washington County Teen Pregnancy Prevention Month - *Carroll Laurie & Jim Kercheval, Washington County Teen Pregnancy Prevention Coalition*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Hagerstown Neighborhood Development Partnership, Inc. - 2006-2016 - *Morgan Plummer, Director*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

FY 2017/18 Budget Review - *Valarie Means, City Administrator; Michelle Hepburn, Director of Finance*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

FY18_Budget_Review_Memo_05-04-2017.pdf

Description

FY18 Bud Review Meeting



CITY OF HAGERSTOWN, MARYLAND

Finance Department
301-739-8577 X160

To: Valerie Means, City Administrator
From: Michelle Hepburn, Director of Finance
Date: May 4, 2017
Subject: FY2017/18 Budget Review

Staff will be present to continue discussions regarding the FY2017/18 Proposed Budget for the General Fund during the Work Session on May 9. Additionally, a schedule of potential adjustments is attached to discuss and review during the Work Session.

May 9, 2017:

1. Mayor and Council Discussion of priority projects
2. Mayor and Council Discussion of General Fund Proposed Budget
3. Economic Redevelopment, Section 5, Pages 11-13

May 9, 2017 through May 16, 2017:

Future budget review work sessions will discuss the City's other funds and cover the following topics throughout May.

1. CDBG Program, Section 5, Pages 3-8
2. Parking Fund 5 Year Projections, Section 7, Pages 26-28
3. Parking Fund Capital Improvement Projects, Section 8, Pages 39 and 166-170
4. Golf Fund 5 Year Projections, Section 7, Pages 29-30
5. Mayor and Council Discussion of Other Funds' Proposed Budget
6. Electric Fund 5 Year Projections, Section 7, Pages 15-17
7. Electric Fund Capital Improvement Projects, Section 8, Pages 32 and 120-137
8. Water Fund 5 Year Projections, Section 7, Pages 18-21
9. Water Fund Capital Improvement Projects, Section 8, Pages 34 and Pages 138-149
10. Wastewater Fund 5 Year Projections, Section 7, Pages 22-25
11. Wastewater Fund Capital Improvement Projects, Section 8, Pages 37 and 150-165

May 16, 2017:

- Public Hearing: FY18 Budget and Property Tax Rate
- Introduction of Ordinances (FY18 Budget and Property Tax Rate)

May 23, 2017:

- Adoption of Ordinances (FY18 Budget and Property Tax Rate)

City of Hagerstown			
Proposed General Fund Budget Adjustments			
to Fiscal Year 2018 Proposed Budget			
	To be reviewed at 5/9/17 meeting	Was reviewed at 5/2/17 meeting	
Beginning GF FY18 Proposed Budget Balance	\$ 10,457	\$ 10,457	
Revenue Adjustments:			
Eliminate 2.7 Cent Tax Rate Increase (\$0.027 per \$100 assessed value)	(672,041)	(672,041)	
Increase HPD DEA/NTF reimbursement	20,000	20,000	
Sale 3 of 8 Train cabooses from the Train exhibit	30,000	30,000	
SWM: 12-18 months implementation timeline	200,000	200,000	
Next Step would need M&C approval to bid rate study for SWM			
Potential allocate partial FY18 expense from GF to a new SWM Fund			
Implement new real estate tax rate tiers (homeowner vs rental)	-	-	
Public notice must be advertised minimum of 15 days prior to Introduction of ordinance. Staff to research and discuss with M&C June-Aug for implementation effective 7/1/18 (FY19)			
Increase and identify tax-exempt properties for new PILOT agreements - FY19	-	-	
Tax Sale No-Bid Properties	-	-	
New state legislation effective in October			
City staff have worked with County staff and prospective legal teams to bring suggestion for plan to M&C this Fall			
Recycling/Trash Fees and Contract - FY19	-	-	
Staff researching and preparing bid new contract to be effective in December			
Further analysis and fee revision to be completed once have new contract for FY19 (\$50K-\$100K)			
Safe Speed for Student Program - add another new camera location (\$50K)	-	-	
Total Revenue Adjustments	(422,041)	(422,041)	
Expenditure Reductions:			
Reduce and/or eliminate events			
Reduce Fairgrounds Harvest Hoedown		2,000	
Reduce Fall Fest activities in Recreation budget		3,000	
Reduce Music by the Lake events		2,500	
Reduce Christmas in the Park		2,000	
Eliminate Fairgrounds Country Fest		6,500	
Reduce Fairgrounds July 4th to just fireworks	10,000	14,000	
Eliminate Utility Benefit Concert		1,000	
Eliminate Veterans WWII Trip		800	
Reduce PT and/or Seasonal staff hours in Parks to close all Parks at dusk versus 10:00 pm	-	10,000	
Increase GF Vacancies Savings for all staff/position by waiting 4 months before posting any position beginning July 1, 2017	100,000	100,000	
Decrease GF retiree amounts to Health Insurance Fund	44,438	44,438	
Reduce General Fund CIP Expenditures (Transfers to CIP from General Fund only)			
Reduce IT Municipal Broadband Project in half (#C0008)	-	3,300	
Reduce Hagerstown Ice Rink Project (#C0843)	5,000	5,000	
Defer Traffic Calming (#C0560) to FY19	20,000	20,000	
Defer Signal Timing Optimization (#C0640) to FY19	-	20,000	
Defer HPD Building: Partial Paving Project (#C0308)	30,000	30,000	
Reduce Downtown Beautification Project (#C0280)	10,000	10,000	
Defer PW LED Signal Lights Project (#C0245)	-	5,000	
Defer PW Signal Controller Upgrades Project (#C0433)	-	20,000	

City of Hagerstown			
Proposed General Fund Budget Adjustments			
to Fiscal Year 2018 Proposed Budget			
	To be reviewed at 5/9/17 meeting	Was reviewed at 5/2/17 meeting	
Reduce General Fund Transfer to Economic Redevelopment Fund if cannot implement SWM	-	-	
City Staff: Miscellaneous Department Operational Reductions			
Reduce PW Operating Expenditures: Tipping Fees	23,000	23,000	
Reduce Planning & Code Administration Expenditures	17,000	17,000	
Reduce City Administrator Operating Expenditures	2,000	2,000	
Reduce City Clerk Operating Expenditures	2,000	2,000	
Reduce Finance Operating Expenditures	2,500	2,500	
Reduce HR conferences & training operating expenditures	7,500	7,500	
Reduce Fire Operating Expenditures: Smoke Alarms	28,000	28,000	
Reduce Communications: Advertising & Marketing/Promotions	24,000	24,000	
Reduce Community Affairs: Advertising	5,000	5,000	
Reduce Community Affairs: Advertising	2,000	2,000	
M&C Proposed Adjustment			
Reduce Legal Operating Expenditures: legal fees flat with FY17 budget	20,000		
Reduce Fire Training Center Project or get additional donations/alternate funding (#C0241)	8,146		
Defer vehicles from GF balance reserves to keep other priority projects below			
PW 2004 pick-up truck (\$30K)			
DCED vehicle (\$25K)			
Re-allocate from General Fund transfers to GF balance reserves funding			
HPD Building: Partial Paving Project (#C0308)	25,000		
Public Art Project (#C0868)	15,000		
Pangborn Park Improvement: Tennis court sealing & line replacement (#C0335)	12,000		
Total Expenditure Reductions	412,584	412,538	
Net Adjustments to General Fund Proposed FY18 Budget	(9,457)	(9,503)	
Ending GF FY18 Proposed Budget Balance	\$ 1,000	\$ 954	

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

Topic:

FY 18 Community Legacy and Strategic Demolition Fund Applications - *Kathleen Maher, Director of Planning and Code Administration; Alex Rohrbaugh, Planner*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

CL_Memo_and_Attachments_5-3-17.pdf

SDF_Memo_and_Attachments_5-3-17.pdf

Description

Community Legacy Memo & Attachments

Strategic Demo Memo & Attachments



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Alex W. Rohrbaugh, AICP, Planner *AWR*
Kathleen A. Maher, AICP, Director of Planning & Code Administration *KAM*

DATE: May 3, 2017

SUBJECT: FY 2018 Community Legacy Application

Mayor and Council Action Requested

Mayor and Council authorization is needed to begin the process to submit an FY 2018 application to the State's Community Legacy Program, as well as adoption of a resolution in support of the City's application. The grant application window for FY18 starts May 8 and the deadline for submittal of grant applications this year is June 8. Staff is bringing the grant requests for Mayor & Council support at the May 23rd Regular Session.

Community Legacy Program

The Community Legacy Program was created by the Glendening administration in 2001 as a part of his Smart Growth package and as an urban counterpart to the Rural Legacy Program. The goal of the Community Legacy program was to provide funding to local governments and community development organizations for essential projects aimed at strengthening declining urban areas through a comprehensive approach that includes activities such as business retention and attraction, encouraging home-ownership and rehabilitation, and commercial revitalization. Our projects must be consistent with the goals and strategies outlined in the City's Sustainable Community Plan and the projects must be located in the City's Sustainable Community Area.

The Maryland Department of Housing and Community Development has \$6 million in Community Legacy funding for grant and loan awards around the State in FY 2018. Community Legacy funds may be used only for capital projects - bricks and mortar projects or loan/grant programs for brick and mortar projects. Our Community Legacy representative at the State has indicated that projects must be ready to go and be completed within two years. While there is no matching requirement, the application needs to show that the project will leverage other funds.

Hagerstown's Past Community Legacy Awards

The City of Hagerstown has been fortunate to receive a number of Community Legacy awards in the past for various City or City-supported downtown revitalization and housing improvement projects. A list of these projects are attached.

Proposed FY 2018 Community Legacy Application

Staff have participated in the Monday morning meetings of the Urban Improvement Project (UIP) partners. At these meetings, possible funding sources have been explored for the various components of that project: expansion of the Maryland Theatre, Board of Education, and University System of Maryland Center at Hagerstown and creation of a plaza and pedestrian bridge behind the buildings on W. Washington Street to link the three components of the project. Attached is the proposed working plan for funding sources for the UIP components. It is recommended to pursue Community Legacy funding this year for two specific UIP projects: expansion of the Maryland Theatre and expansion of the Board of Education's presence on S. Potomac Street. The two projects are consistent with the City's updated Sustainable Community Plan. The Maryland Theatre expansion project is also specifically recommended in the 2014 Community's City Center Plan as Catalyst Project #2. The Board of Education expansion is referenced in the Community's City Center Plan as supporting the Maryland Theatre project.

Project for Community Legacy Grant	Grant Request	Match
Maryland Theatre Expansion	\$300,000	\$500,000 City \$500,000 County \$5,000,000 Governor's Alloc. \$6,750,000 Other Sources
Board of Education Expansion	\$300,000	\$4,000,000 County \$4,000,000 BOE \$2,500,000 Governor's Alloc. \$4,700,000 Other Sources
Total	\$600,000	\$27,950,000

Washington County and the local delegation are strongly encouraging the City to apply for Community Legacy grants to pass-through to the Maryland Theatre expansion project and the Board of Education expansion project. The community's funding plans for UIP were shared with the Secretary of the Maryland Department of Housing & Community Development on April 21st at a meeting hosted by Senator Serafini.

In support of our partners on the UIP project and to emphasize the high priority we place on this public-private partnership and the projected impact on downtown vitality of the various components of the UIP, City staff are proposing that we only apply for these two projects for Community Legacy funding this year.

Staff will be present at the meeting to answer any questions about the proposed projects.

Attachments:

Hagerstown's Past Community Legacy Awards

UIP Funding Plan

Resolution of Support for Proposed Community Legacy Projects (included in the meeting packet)

C: Rodney Tissue, City Engineer

Jill Frick, Director DCED, and Jonathan Kerns, Community Development Manager

Rob Slocum, County Administrator

Jessica Green, Maryland Theatre

Boyd Michael, Washington County Public Schools

Hagerstown's Past Community Legacy Awards

Year	Project	Award	Status
FY 2002	Home Pride Housing Improvement Program	\$500,000	Completed
FY 2002	Home Pride Parking Grant Program	\$110,000	Completed
FY 2002	S. Potomac/Antietam Street Intersection Improvement	\$26,000	Completed
FY 2003	University Plaza	\$750,000	Completed
FY 2004	BISFA Feasibility Study	\$20,000	Completed
FY 2004	Performing and Visual Arts Center	\$50,000	Relinquished (<i>Situation Changed</i>)
FY 2005	Massey Redevelopment Loan	\$50,000	Relinquished (<i>MHT Demo Issues</i>)
FY 2006	Alms House Acquisition and Stabilization	\$85,000	Completed
FY 2007	Meda's Adaptive Re-Use	\$115,000	Relinquished (<i>Situation Changed</i>)
FY 2007	BISFA Facade Improvement	\$115,000	Completed
FY 2008	Upper Floors Renovation RLF	\$100,000	Completed
FY 2008	S. Potomac Street Housing Project	\$150,000	Relinquished (<i>Impact of Down Economy</i>)
FY 2009	Hagerstown Neighborhood Development Partnership, Inc Project at 25-29 S. Potomac Street	\$150,000	Relinquished (<i>Situation Changed</i>)
FY 2011	Business Incubator, 60-64 W. Washington Street	\$150,000	Completed
FY 2012	Artist Lofts, 36-40 N. Potomac Street	\$80,000	Completed
FY 2013	43-53 W Washington Street Acquisition	\$100,000	Completed
FY 2014	43-53 W Washington Street Rehabilitation	\$100,000	Underway
FY 2014	170 W Washington Street Rehabilitation	\$50,000	Completed
FY 2015	USMH Student Housing Project (<i>grant award transferred to 170 W Washington St Rehabilitation Project due to complications with Maryland Historical Trust (MHT)</i>)	\$100,000	Completed
FY 2015	Acquisition/Rehabilitation of 278 South Prospect Street for Homeownership	\$100,000	Completed with some funding remaining for additional projects
FY 2016	Acquisition/Rehabilitation of Dwelling for Homeownership	\$150,000	Underway
FY 2016	Renovation of storefronts in Main Street Area (for City Center Retail/Restaurant Incentive Program)	\$50,000	Underway

FY2018 Community Legacy Application

May 3, 2017

Page 4

FY 2017	Student Housing Project	\$200,000	Processing Agreement
FY 2017	Down Payment Assistance Program	\$50,000	Processing Agreement
FY 2017	Façade Grant Program for Commercial & Mixed-Use Buildings	\$25,000	Processing Agreement
	TOTAL		

Urban Improvement Project

Funding Requirements and Projected Sources

5/1/2017

Source of Funds	Maryland Theatre Expansion	BOE Expansion	USMH Expansion	Plaza/Arts Trail	Pedestrian Bridge	Parking Deck	TOTAL
City of Hagerstown	\$500,000			\$150,000 (trail extension) plus \$1,000,000 (utilities & plaza)			\$1,650,000
Washington County	\$500,000	\$4,000,000					\$4,500,000
BOE		\$4,000,000					\$4,000,000
USM							
Developer					\$250,000		\$250,000
Private	\$6,000,000		\$1,750,000				\$7,750,000
State - Governor's Allocation	\$5,000,000	\$2,500,000					\$7,500,000
State - IAC		\$3,000,000					\$3,000,000
State - Bonds					\$200,000		\$200,000
State - Strategic Demolition Fund	\$500,000	\$500,000		\$500,000 (utilities)			\$1,500,000
State - Community Legacy	\$300,000	\$300,000					\$600,000
State - POS				\$500,000			\$500,000
Federal - ARC	\$250,000						\$250,000
GAP in FUNDING	\$0	\$1,200,000	\$0	\$0	\$300,000	\$8,000,000	\$9,500,000
TOTAL	\$13,050,000	\$15,500,000	\$1,750,000	\$2,150,000	\$750,000	\$8,000,000	\$41,200,000

Black - committed funds	Red - planned funding sources
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Proposed City Budget (future bond issue) - \$1,000,000 for some portion of UIP. Need M&CC approval of use for plaza and undergrounding utilities.

Schedule -Theatre and BOE Projects anticipate going out to bid in late fall with construction starting in 2018.

Timing Issue - Planned demolitions and underground utility work would occur in the fall. DHCD awards should be in August.

LOCAL RESOLUTION

Resolution of the Mayor and Council of the City of Hagerstown approving the application and receipt of financing for *Community Legacy* projects (“the Projects”) further described in the *Community Legacy* application (“the Application”), to be financed either directly by the Department of Housing and Community Development (the “Department”) of the State of Maryland or through other departments or agencies of the State of Maryland.

WHEREAS, the Mayor and City Council of the City of Hagerstown recognizes that there is a significant need for reinvestment and revitalization of Hagerstown’s Sustainable Community Area; and

WHEREAS, the Department, either through *Community Legacy* or through other Programs of the Department, or in cooperation with other State departments or agencies, may provide some or all of the financing for the Projects in order to assist in making them financially feasible; and

WHEREAS, the Projects are located within a priority funding area under Section 5-7B-02 of the Smart Growth Act and within the Hagerstown Sustainable Community Area, and the Projects will conform to the local zoning code; and

WHEREAS, the applicable law and regulations require approval of the *Community Legacy* Projects and Project Financing by the Mayor and City Council of the City of Hagerstown;

NOW, THEREFORE BE IT RESOLVED THAT, the Mayor and City Council of the City of Hagerstown hereby endorses the Projects; and HEREBY approves the request in the form of a grant in the approximate amount of up to \$600,000: (i) \$300,000 to support expansion of the Maryland Theatre; and (ii) \$300,000 to support expansion of the Board of Education; and

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating his approval thereof; and

BE IT FURTHER RESOLVED THAT, the Mayor is hereby authorized to execute documents and take any action necessary to carry out the intent of these resolutions; and,

BE IT FURTHER RESOLVED THAT, copies of this Resolution be sent to the Secretary of Housing and Community Development of the State of Maryland.

READ AND PASSED THIS 23rd day of May, 2017.

ATTEST/WITNESS:

MAYOR AND CITY COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

Date of Passage: 05/23/2017
Effective Date: 05/23/2017



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Alex W. Rohrbaugh, AICP, Planner *AWR*
Kathleen A. Maher, AICP, Director of Planning & Code Administration *K*

DATE: May 3, 2017

SUBJECT: FY 2018 Strategic Demolition Fund Application

Mayor and Council Action Requested

Mayor and Council authorization is needed to begin the process to submit an FY 2018 application to the State's Strategic Demolition Fund Program, as well as adoption of a resolution in support of the City's application. The grant application window will open on May 8th and the deadline for submittal of grant applications this year is June 8th. Staff is bringing the grant requests for approval at the May 23rd Regular Session.

Strategic Demolition Fund Program

Started in 2012 and administered by the Maryland Department of Housing and Community Development (DHCD), the Strategic Demolition Fund seeks to catalyze activities that accelerate economic development and job production in existing Maryland communities. The Fund aims to improve the economic viability of "grey field development," which often faces more barriers than sprawling "green field development." Awards of the Fund focus on projects that can have a high economic and revitalization impact in existing communities. Like Community Legacy, projects must be consistent with the goals and strategies outlined in the City's Sustainable Community Plan and the projects must be located in the City's Sustainable Community Area.

DHCD has \$ 3 million in Strategic Demolition funding for grant awards around the State in FY 2018. The applicant is required to provide evidence of a match that is equal to 25% of the Strategic Demolition Fund request.

Eligible projects will be capital projects, including but not limited to, demolition of derelict non-contributing structures, site acquisition and assembly to create redevelopment-sized parcels for solicitation or planned development, site development, construction-level architectural and engineering designs, and stabilization of buildings to stay further deterioration and prepare properties for rehabilitation and reuse.

Proposed FY 2018 Strategic Demolition Fund Application

Staff have participated in the Monday morning meetings of the Urban Improvement Project (UIP) partners. At these meetings, possible funding sources have been explored for the various components of that project: expansion of the Maryland Theatre, Board of Education, and University System of Maryland Center at Hagerstown and creation of a plaza and pedestrian bridge behind the buildings on W. Washington Street to link the three components of the project. Attached is the proposed working plan for funding sources for the UIP components. It is recommended to pursue Strategic Demolition Fund funding this year for three specific UIP projects: demolition of site in prep for the expansion of the Maryland Theatre, demolition of site in prep for the expansion of the Board of Education's presence on S. Potomac Street, and undergrounding of utilities in prep for construction of the plaza. The three projects are consistent with the City's updated Sustainable Community Plan. The Maryland Theatre expansion project is also specifically recommended in the 2014 Community's City Center Plan as Catalyst Project #2. The Board of Education expansion is referenced in the Community's City Center Plan as supporting the Maryland Theatre project. The plaza supports these projects as well as expansion of the University System of Maryland Center at Hagerstown (Catalyst Project #3).

Project for Strategic Demolition Fund Grant	Grant Request	Match
Expansion of Maryland Theatre – demolition of site of proposed addition	\$500,000	\$500,000 – City \$500,000 – County \$5,000,000 – Governor's Alloc. \$6,550,000 – Other Sources
Expansion of Board of Education – demolition of site of proposed new building	\$500,000	\$4,000,000 – County \$4,000,000 – BOE \$2,500,000 – Governor's Alloc. \$4,500,000 – Other Sources
Creation of Plaza to Link UIP Projects – underground the utilities behind the buildings on W. Washington Street	\$500,000	\$1,150,000 – City bond funds* \$500,000 – Other Sources
	\$1.5 M	\$29,200,000

**Yet to be formally approved by the Mayor and City Council*

Washington County and the local delegation are strongly encouraging the City to apply for Strategic Demolition Fund grants to pass-through to the Maryland Theatre expansion project and the Board of Education expansion project and to fund undergrounding utilities for the plaza. The community's funding plans for UIP were shared with the Secretary of the Maryland Department of Housing & Community Development on April 21st at a meeting hosted by Senator Serafini.

In support of our partners on the UIP project and to emphasize the high priority we place on this public-private partnership and the projected impact on downtown vitality of the various components of the UIP, City staff are proposing that we only apply for these three projects for Strategic Demolition Fund funding this year. Staff will be present at the meeting to answer any questions about the proposed projects.

Attachment:

UIP Funding Plan

Resolution of Support for Proposed Strategic Demolition Fund Grant (included in the meeting packet)

C: Rodney Tissue, City Engineer

Jill Frick, Director DCED, and Jonathan Kerns, Community Development Manager

Rob Slocum, County Administrator

Jessica Green, Maryland Theatre

Boyd Michael, Washington County Public Schools

Urban Improvement Project

Funding Requirements and Projected Sources

5/1/2017

Source of Funds	Maryland Theatre Expansion	BOE Expansion	USMH Expansion	Plaza/Arts Trail	Pedestrian Bridge	Parking Deck	TOTAL
City of Hagerstown	\$500,000			\$150,000 (trail extension) plus \$1,000,000 (utilities & plaza)			\$1,650,000
Washington County	\$500,000	\$4,000,000					\$4,500,000
BOE		\$4,000,000					\$4,000,000
USM							
Developer					\$250,000		\$250,000
Private	\$6,000,000		\$1,750,000				\$7,750,000
State - Governor's Allocation	\$5,000,000	\$2,500,000					\$7,500,000
State - IAC		\$3,000,000					\$3,000,000
State - Bonds					\$200,000		\$200,000
State - Strategic Demolition Fund	\$500,000	\$500,000		\$500,000 (utilities)			\$1,500,000
State - Community Legacy	\$300,000	\$300,000					\$600,000
State - POS				\$500,000			\$500,000
Federal - ARC	\$250,000						\$250,000
GAP in FUNDING	\$0	\$1,200,000	\$0	\$0	\$300,000	\$8,000,000	\$9,500,000
TOTAL	\$13,050,000	\$15,500,000	\$1,750,000	\$2,150,000	\$750,000	\$8,000,000	\$41,200,000

Black - committed funds	Red - planned funding sources
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Proposed City Budget (future bond issue) - \$1,000,000 for some portion of UIP. Need M&CC approval of use for plaza and undergrounding utilities.

Schedule -Theatre and BOE Projects anticipate going out to bid in late fall with construction starting in 2018.

Timing Issue - Planned demolitions and underground utility work would occur in the fall. DHCD awards should be in August.

LOCAL RESOLUTION

Resolution of the Mayor and Council of the City of Hagerstown approving the application and receipt of financing for a *Strategic Demolition Fund* project (“the Project”) further described in the *Strategic Demolition Fund* application (“the Application”), to be financed either directly by the Department of Housing and Community Development (the “Department”) of the State of Maryland or through other departments or agencies of the State of Maryland.

WHEREAS, the Mayor and City Council of the City of Hagerstown recognizes that there is a significant need for reinvestment and revitalization of Hagerstown’s Sustainable Community Area; and

WHEREAS, the Department, either through the *Strategic Demolition Fund* or through other Programs of the Department, or in cooperation with other State departments or agencies, may provide some or all of the financing for the Project in order to assist in making it financially feasible; and

WHEREAS, the Project is located within a priority funding area under Section 5-7B-02 of the Smart Growth Act and within the Hagerstown Sustainable Community Area, and the Project will conform to the local zoning code; and

WHEREAS, the applicable law and regulations require approval of the *Strategic Demolition* Project and Project Financing by the Mayor and City Council of the City of Hagerstown;

NOW, THEREFORE BE IT RESOLVED THAT, the Mayor and City Council of the City of Hagerstown hereby endorses the Project; and HEREBY approves the request in the form of a grant in the approximate amount of up to \$1,500,000: (i) \$500,000 for demolition to support the Maryland Theatre expansion; (ii) \$500,000 for demolition to support the expansion of the Board of Education; and (iii) \$500,000 for relocation of underground utilities to support the creation of a plaza that will link the Urban Improvement Project (UIP) projects; and

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating his approval thereof; and

BE IT FURTHER RESOLVED THAT, the Mayor is hereby authorized to execute documents and take any action necessary to carry out the intent of these resolutions; and,

BE IT FURTHER RESOLVED THAT, copies of this Resolution be sent to the Secretary of Housing and Community Development of the State of Maryland.

READ AND PASSED THIS 23rd day of May, 2017.

ATTEST/WITNESS:

MAYOR AND CITY COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

Date of Passage: 05/23/2017
Effective Date: 05/23/2017

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

Topic:

Rezoning - Old Towne Development LLC, 613 West Washington Street - *Kathleen Maher, Director of Planning and Code Administration; Alex Rohrbaugh, Planner*

Mayor and City Council Action Required:

The approval (or denial) of the rezoning from RMED to CL is scheduled for May 23. Staff wishes to

get direction on how the Mayor & Council wishes to proceed on the rezoning. If the direction is approval of the rezoning, then the Mayor & Council need to include in the Findings of Fact:

- Agreement with the applicant's justification and the Planning Commission's reasoning concerning mistake in the existing RMED zoning classification
- The appropriateness of CL zoning for the property

If the direction would be denial of rezoning, then the Mayor & Council would need to state for the Findings of Fact the reasoning for such a denial.

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Baer_Rezoning_MCC_Memo_5-4-17.pdf

Description

Rezoning Cover Memo & Attachments



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Alex W. Rohrbaugh, AICP, Planner *AR*

DATE: May 4, 2017

SUBJECT: ZM-2017-01: Rezoning - Old Towne Development LLC, 613 West Washington St

Action Requested

The approval (or denial) of the rezoning from RMED to CL is scheduled for May 23. Staff wishes to get direction on how the Mayor & Council wishes to proceed on the rezoning. If the direction is approval of the rezoning, then the Mayor & Council need to include in the Findings of Fact:

- ✓ Agreement with the applicant's justification and the Planning Commission's reasoning concerning mistake in the existing RMED zoning classification
- ✓ The appropriateness of CL zoning for the property

If the direction would be denial of rezoning, then the Mayor & Council would need to state for the Findings of Fact the reasoning for such a denial.

Public Hearing

The Public Hearing for this proposal was held on Tuesday, April 25th. The record was held open for 10 days until May 5th. Staff has not receive any additional public comment as of the date of this memorandum. Staff will deliver any written comments to the Commission submitted from now until the meeting on May 9th.

The applicant (Jake Baer) was the only person to provide testimony. No one else spoke either in favor or against the rezoning.

Overview

Old Towne Development LLC has filed an application for rezoning on property located at 613 West Washington Street. The total of the proposed rezoning is approximately 0.21 acres. This property has been zoned R2/RMED since 1977. The property once contained a single-family residential dwelling and still contains a large garage block building, both constructed prior to the City having a zoning ordinance (1956). The dwelling was demolished in 1962, leaving the block building the only structure on the property. #613 and neighboring #607 (also owned by applicant and zoned CL) have both been under common ownership since the mid-20th Century.

The applicant proposes to rezone the property from RMED (Residential Medium Density) to CL (Commercial Local). If rezoned to CL, the plan is to renovate the building for commercial use.

"Mistake" Justification for Rezoning

Under Maryland Law, a piecemeal rezoning of property can be considered only if the applicant can demonstrate since the last comprehensive rezoning (2010) that: 1) there was a substantial change in

the character of the neighborhood where the property is located, or 2) that there was a mistake in the existing zoning classification. The applicant has filed the rezoning based on the mistake in the existing zoning classification because the commonly-owned 607-609 W Washington St (zoned CL) and 613 W Washington St properties should have been zoned CL together because they have historically been used for a common purpose and that the City did not take this into account during the last Comprehensive Rezoning in 2010. The applicant's complete justification is attached.

Planning Commission Recommendation

At its April 5th Meeting, the Planning Commission considered the rezoning proposal and the testimony provided at the Public Review Meeting. The Commission determined in its deliberations that there was a mistake in the existing RMED zoning classification based on the following:

- 1) The City did not take into account that 607 West Washington Street (zoned CL) and 613 West Washington Street have been and are under common ownership and were historically used together for a common commercial use; and
- 2) The City did not consider this during the last Comprehensive Rezoning in 2010.

For these reasons, the Planning Commission recommended the property be rezoned to CL based on the mistake in the existing zoning classification for the reasons stated above.

Action Dates

May 23 – Approve or Deny Rezoning

June 22 – If approved, rezoning takes effect

Attachments:

Findings of Fact (DRAFT)

Application

C: Kathleen Maher, Director PCAD

Jennifer Keefer, City Attorney

Jason Morton, City Attorney

CITY OF HAGERSTOWN, MARYLAND

Olde Towne Development LLC, ZM-2017-01 613 West Washington Street Findings of Fact and Statement of Reasons

The Mayor and City Council find from the evidence in the record that the following facts are true:

Relationship of Proposed Map Amendment to Comprehensive Plan

The 2008 Comprehensive Plan identifies the property at 613 West Washington Street as Medium Density Residential future land use. The purpose of Medium Density Residential future land use is to encourage a broad range of housing types, including single-family detached, duplex, and townhouse units, with a density range of five (5) – ten (10) units per acre. The properties immediately to the east of 613 West Washington Street have been designated as Commercial General future land use. The Commercial General future land use designation is intended to accommodate a broad range of commercial purposes, especially retail uses and personal services, ranging from individual stores to shopping centers.

This property has been zoned R2/RMED since 1977. The property once contained a single-family residential dwelling and still contains a large garage block building, both constructed prior to the City having a zoning ordinance (1956). The dwelling was demolished in 1962, leaving the block building the only structure on the property. #613 and neighboring #607 (also owned by applicant and zoned CL) have both been under common ownership since the mid-20th Century.

It is believed that the block building has been used for commercial activity (a non-conforming use in RMED zoning) for quite some time; however, neither Staff nor the applicant were able to establish a continuous track record of legal commercial uses in the building.

Olde Towne Development LLC (henceforth referred to as “Applicant”) proposes to rezone the property from RMED (Residential Medium Density) to CL (Commercial Local). If rezoned to CL, the plan is to renovate the building for commercial use.

Neighborhood of Impact for Proposed Rezoning

The property is +/- 0.21 acres in size and currently contains an existing garage/block building that is situated near the rear of the property. The property is surrounded by primarily single- and two-family residential dwellings on small lots on the western, northern and southern sides (West Washington Street and Madison Avenue). The area to the east comprises of mixed-use, commercial and residential buildings that are zoned Commercial Local (CL).

The property fronts on West Washington Street, which is classified as an Arterial that carries approximately 7,100 vehicles per day. Given that the property is only 0.21 acres in size and the low-intensity commercial nature of CL zoning, it is anticipated that the proposed rezoning and permitted uses under CL would have minimal impact to West Washington Street.

Mistake in Comprehensive Rezoning

Applicant’s Justification for Mistake

The Applicant requested the rezoning on the argument that there is a mistake in the existing zoning classification because:

“At the time the former McCauley building parcel (607-609 West Washington Street) was rezoned CL (Commercial-Local), the subject property (613 West Washington Street) was not similarly rezoned, but was instead rezoned RMED (Residential-Medium Density). The zoning of the former McCauley building parcel should correspond with the zoning of the subject property. Both properties should have been rezoned CL. The former McCauley building parcel and the subject property have historically been owned and used together for commercial purposes. A rezoning premised on a theory of mistake may be approved when it is shown that the assumptions or premises relied upon by the Mayor and Council at the time of the comprehensive rezoning were incorrect. Error can be established by showing that, at the time of the comprehensive rezoning, the Mayor and Council failed to take into account then existing facts, so that the legislative action was premised on a misapprehension. *Boyce v. Sembly*, 25 Md.App.43 (1975)”

Planning Commission Review

The Planning Commission held a Public Review Meeting on March 29, 2017. The Commission took testimony from the Applicant. The Planning Commission also took testimony from one adjacent property who had concerns unrelated to the rezoning proposal but had no objections to the rezoning to CL.

At its April 5, 2017 meeting, the Planning Commission considered the rezoning proposal and the testimony provided at the Public Review Meeting. The Commission determined that there was a mistake in the existing RMED zoning classification based on the following:

- 1) The City did not take into account that 607 West Washington Street (zoned CL) and 613 West Washington Street have been and are under common ownership and were historically used together for a common commercial use; and
- 2) The City did not consider this during the last Comprehensive Rezoning in 2010.

For the reasons state above, the Planning Commission recommended the property be rezoned to CL based on the mistake in the existing zoning classification for the reasons stated above.

Mayor and City Council Review

The Mayor and City Council held its Public Hearing on April 25, 2017. The Applicant spoke in favor of the rezoning following the Staff’s presentation. No one else spoke either in favor or against the rezoning. The record was held open for 10 days after the Public Hearing, and no public comment was received during that time.

Requested Zoning

To be completed by time of approval or denial of rezoning.

Conclusion

To be completed by time of approval or denial of rezoning.



ORIGINAL

CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

REZONING APPLICATION & REVIEW CHECKLIST

Submittal Requirements:

- Original Application and 16 copies, including Checklist
- 17 complete sets of plan
- Filing fee (please consult [current fee schedule](#))

Case No. ZM - 2017-01

Office Use Only

Munis # 2017 0344

Name of Project: 613 CAR GARAGE

Location of Property: 613 W. WASHINGTON STREET, HAGERSTOWN, MD, 21740

(Please include street address, if known)

Deed Reference: Liber: 1495 Folio: 59 Zoning District: RMED

Proposed Work (i.e. addition, accessory building, parking; please include size of addition and amount of disturbed area):

RENOVATION OF EXISTING BUILDING. BUILDING FOOT PRINT REMAINS THE SAME

Engineering/Survey Company Name: _____

Contact Person: _____ Email: _____

Mailing Address: _____

Telephone: _____ Fax: _____

Developer/Applicant Name: OLDE TOWNE DEVELOPMENT, LLC

Contact Person: JAKE BAER Email: JBAER3@YAHOO.COM

Mailing Address: 801 N. PITT STREET, 101, ALEXANDRIA, VA 22314

Telephone: 703.739.3830

Fax: _____

Property Owner Name: OLDE TOWNE DEVELOPMENT, LLC

Contact Person: JAKE BAER Email: JBAER3@YAHOO.COM

Mailing Address: SAME

Telephone: SAME Fax: SAME

This Chart for Staff Use Only	1 st Review	2 nd Review
Date Accepted for Processing		
Review Date		
Returned to Design Firm		

Rezoning Narrative Addendum:

Note: Zoning change requests must be accompanied by documentation explaining the basis for change or mistake, boundaries of the neighborhood subject to change, and any other facts supporting the Applicant's position.

_____ Has the applicant provided an addendum with the application that addresses the legal justification for the rezoning and provides a definition of neighborhood?

- ☒ Change in Character of Neighborhood
☒ Mistake in Original Zoning
☐ Both
☐ Not Applicable (for overlays)

_____ Has the applicant provided a separate list of adjacent property owners and addresses provided?

Instructions to Engineer/Surveyor:

This checklist is the format used by the Planning and Code Administration Department to review and comment on your plan. It will be/has been returned to you so you can address the issues raised throughout the checklist. **When you have completed the necessary revisions to this plan, submit the following number of copies along with this checklist to the Planning and Code Administration Department.**

Planning and Code Administration Division	2 copies
Copies for Engineering, Electric Division, Water Division, Wastewater Division (Even if the plan has been reviewed and approved by these agencies)	4 copies
Copies for any other agency with outstanding comments	As Needed

Statements

I understand that site plan approval by the Hagerstown Planning Commission does not constitute permission to construct. Appropriate permits must be obtained from the City Engineer's Office and Utilities Department before construction may commence. **This statement must be signed before application will be accepted for processing.**

I understand that the design of the site plan must conform to the requirements of the City's Land Management Code, unless waivers are granted by the Planning Commission. If waivers from a design standard stated in Article 5, Subdivision and Land Development, are requested, final approval of the plan by the Planning Commission may be required.

I understand that the Planning and Code Administration Department reserves the right to bring this plan before the Planning Commission for final approval even when no waivers are requested or required.

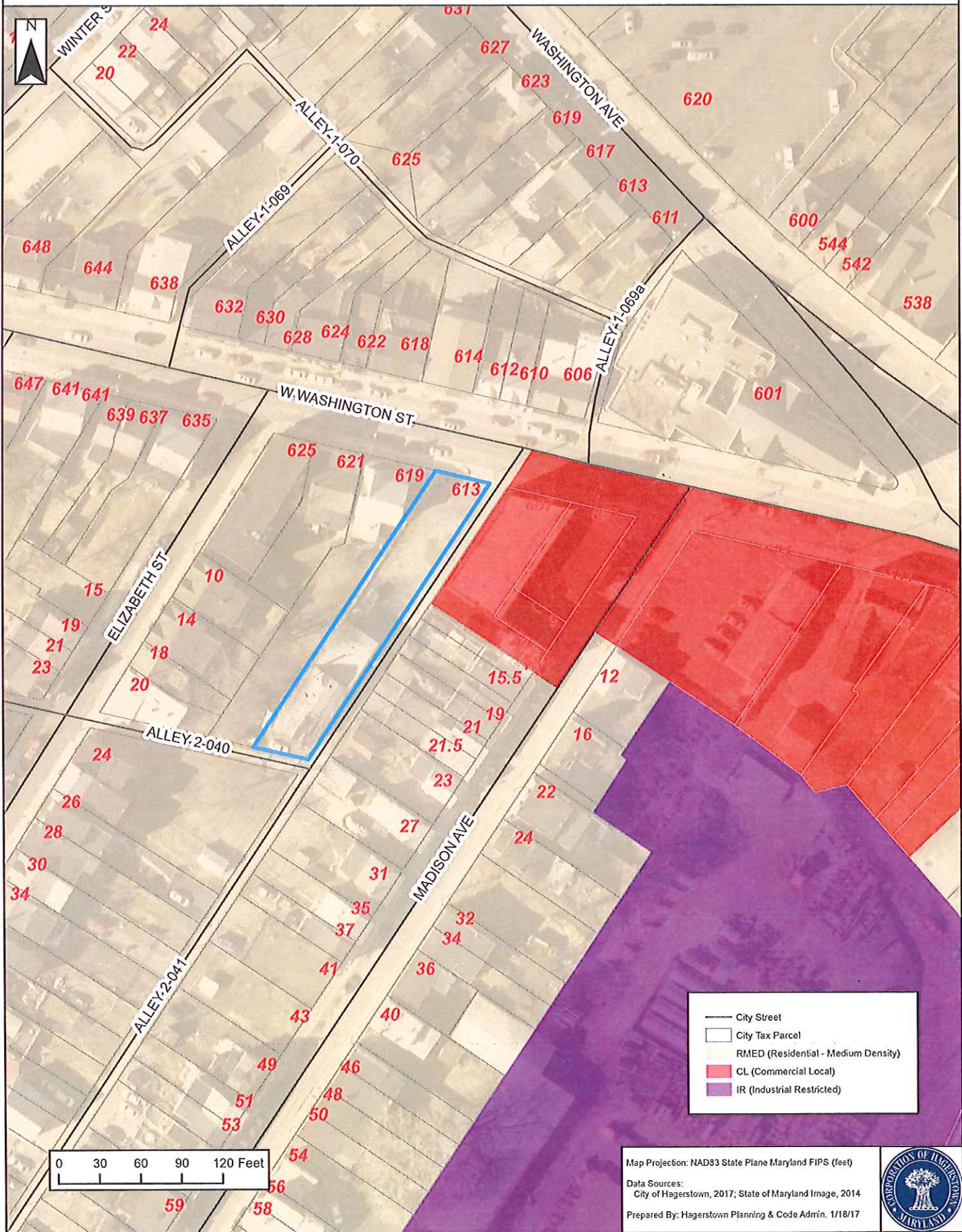
Owner's Signature _____
Date 3/1/17

Applicant's Signature (if different from owner) _____

City of Hagerstown, Maryland
Planning and Code Administration Department
One East Franklin Street, Suite 300
Hagerstown, MD 21740
T | 301.739.8577, Ext. 138
F | 301.790.2650

Form Created: 6/15/2016

613 W Washington St



01495 0059

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

DEED

THIS DEED made on April 23rd, 1999 by and between
Fanya Vasilevsky and Michael Vasilevsky,
parties of the first part and
Olde Towne Development, LLC
party of the second part:

WITNESSETH that in consideration of \$93,500.00
the parties of the first part do hereby grant unto the party of
the second part, in fee simple, all of that land, together with
the improvements, rights, privileges and appurtenances to the
same belonging, situate in the Washington County, State of
Maryland, and described as follows, to wit:

SEE EXHIBIT A ATTACHED HERETO

Parcel ID#:

Title Insurer: Commonwealth Land Title Ins Co

And the said parties of the first part covenant that they
will warrant specially the property hereby conveyed and that they
will execute such further assurances of said land as may be
requisite.

WITNESS the hand and seal of the parties of the first part
the day and year hereinbefore written.

Fanya Vasilevsky (SEAL)
Fanya Vasilevsky

Michael Vasilevsky (SEAL)
Michael Vasilevsky

STATE OF MARYLAND)
)SS:
COUNTY OF MONTGOMERY)

I HEREBY CERTIFY, that on this April 23, 1999, before me, a
Notary Public of said State in and for the said county,
personally appeared in my jurisdiction,
Fanya Vasilevsky, Michael Vasilevsky,,
who is/are well known to me as the person(s) who executed the
foregoing document, and who acknowledged the same to be
his/her/their act and deed.

WITNESS my hand and Notarial Seal.

My Commission expires: 1-1-01

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

Michael E. Gross, Esq.
MICHAEL E. GROSS, ESQ.

MAILED JUN 17 1999

RETURN TO:
Michael E. Gross, Esq.
5530 Wisconsin Avenue #1110
Chevy Chase, Maryland 20815

62-22-02

TAXES PAID 05/12/99 (2500)
TODD L. HENNING, TREASURER

JUN 17 1999

02:56 PM

INS. FD. SURE.	5.00
RECORDING FEE	20.00
RECORDATION	710.00
TR. TAX STATE	467.50
TOTAL	1,202.50
Rest AMB	Rest \$ 935

DSW TLC

EXHIBIT A

All the following described tracts or parcels of land, together with the improvements thereon, and all the rights, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, situate on the South side of West Washington Street, in Hagerstown, Washington County, Maryland, and known as 607-609 and 613 West Washington Street, and 11 Madison Avenue, Hagerstown, Maryland, and more particularly described as follows:

TRACT NO. 1:

PARCEL NO. 1: All the following lot or parcel of land, together with the improvements thereon, situate and lying on the south side of West Washington Street in Hagerstown, Washington County, Maryland, and having a frontage on said street of forty-one (41) feet, and running back therefrom to an alley in the rear of said lot a distance of Two Hundred Forty (240) feet, and the width of said lot at said alley being Thirty-nine and one-third ($39 \frac{1}{3}$) feet; said lot is bounded on the East by an alley and on the West by the property now or formerly owned by Solomon Baker, and is Lot No. 1 on a plat of lots made by S.S. Downin for David C. Hammond and wife, and Susan Armstrong, and recorded in Liber 78, folios 657 and 658, one of the Land Records of Washington County, Maryland, the improvements on said property being 613 West Washington Street, Hagerstown, Maryland. SAVING AND EXCEPTING HEREFROM all of Parcel No. 2 hereinafter described.

PARCEL NO. 2: All that parcel of land fronting 33 feet on the South side of West Washington Street, in Hagerstown, Washington County, Maryland, and extending Southwardly therefrom with uniform width a distance of 60 feet, being the Northwesternmost part of Lot No. 1 on a Plat of lots made by S.S. Downin for David C. Hammond and wife and recorded among the Land Records of Washington County, Maryland, in Liber 77, folio 701.

TRACT NO. 2:

PARCEL NO. 1: Beginning for the outlines thereof at a point in the South margin of West Washington Street at the intersection of said street and the public alley running Southwardly therefrom between Madison Avenue and Elizabeth Street and running thence along the East margin of said alley a distance of 82 feet, more or less, then leaving said alley in an Eastwardly direction $45 \frac{1}{2}$ feet, then parallel with the said alley Northwardly a distance of 90 feet, more or less, to West Washington Street, then Westwardly along the South margin of said street $48 \frac{1}{2}$ feet, more or less, to the place of beginning, being part of Lot No. 4 on the Plat of Winter's Addition to Hagerstown, recorded in Liber 84, folio 432, among the Land Records of Washington County, Maryland.

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY

_____ JAMES
 _____ KATHLEEN
 _____ MARY
 _____ PETER

01495 0062

CLERK OF THE CIRCUIT COURT
WASHINGTON COUNTY.

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☐ County: _____

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)
(☐ Check Box If Addendum Intake Form is Attached.)

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed	<input type="checkbox"/> Mortgage	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____			
		<input checked="" type="checkbox"/> Deed of Trust	<input type="checkbox"/> Lease					
2	Conveyance Type Check Box	<input type="checkbox"/> Improved Sale	<input type="checkbox"/> Unimproved Sale	<input type="checkbox"/> Multiple Accounts	<input type="checkbox"/> Not an Arms- Length Sale [9]			
		<input type="checkbox"/> Arms-Length [1]	<input type="checkbox"/> Arms-Length [2]	<input type="checkbox"/> Arms-Length [3]				
3	Tax Exemptions (if Applicable)	<input type="checkbox"/> Recordation						
		<input type="checkbox"/> State Transfer						
Cite or Explain Authority		<input type="checkbox"/> County Transfer						
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only				
		Purchase Price/Consideration \$ _____		Transfer and Recordation Tax Consideration				
		Any New Mortgage \$ _____		Transfer Tax Consideration \$ _____				
		Balance of Existing Mortgage \$ _____		X () % = \$ _____				
		Other: \$ _____		Less Exemption Amount = \$ _____				
		Other: \$ _____		Total Transfer Tax = \$ _____				
		Full Cash Value \$ _____		Recordation Tax Consideration \$ _____				
				X () per \$500 = \$ _____				
				TOTAL DUE \$ _____				
5	Fees	Amount of Fees		Doc. 1	Doc. 2	Agent:		
		Recording Charge		\$ _____	\$ _____			
		Surcharge		\$ _____	\$ _____	Tax Bill:		
		State Recordation Tax		\$ _____	\$ _____	C.B. Credit:		
		State Transfer Tax		\$ _____	\$ _____	Ag. Tax/Other:		
		County Transfer Tax		\$ _____	\$ _____			
		Other		\$ _____	\$ _____			
		Other		\$ _____	\$ _____			
6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG (5)	
		03	030173464-01338	1043				
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)
		Location/Address of Property Being Conveyed (2)						
Other Property Identifiers (if applicable)							Water Meter Account No.	
Residential <input type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input type="checkbox"/> or Ground Rent <input type="checkbox"/> Amount: _____								
Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred: _____								
If Partial Conveyance, List Improvements Conveyed: _____								
7	Transferred From	Doc. 1 - Grantor(s) Name(s)		Doc. 2 - Grantor(s) Name(s)				
		Fanya Michael Vasilevsky		Okde Towne Development LLC				
8	Transferred To	Doc. 1 - Owner(s) of Record, if Different from Grantor(s)		Doc. 2 - Owner(s) of Record, if Different from Grantor(s)				
9	Other Names to Be Indexed	Doc. 1 - Grantee(s) Name(s)		Doc. 2 - Grantee(s) Name(s)				
		Okde Towne Development, LLC		Walker, John W.				
10	Contact/Mail Information	New Owner's (Grantee) Mailing Address						
		1 Hall Court, Potomac, Md. 20854						
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER	Doc. 1 - Additional Names to be Indexed (Optional)						
		Doc. 2 - Additional Names to be Indexed (Optional)						
12	Contact Person	Instrument Submitted By or Contact Person						
		Name: Michael E. Cross						
13	Assessment Information	Firm: 5530 Wisconsin Ave.						
		Address: Chevy Chase, Md. 20815						
14	Assessment Use Only - Do Not Write Below This Line	Phone: () _____						
		Return to Contact Person <input checked="" type="checkbox"/>						
15	Assessment Use Only - Do Not Write Below This Line	Hold for Pickup <input type="checkbox"/>						
		Return Address Provided <input type="checkbox"/>						
16	Assessment Use Only - Do Not Write Below This Line	Terminal Verification <input type="checkbox"/>						
		Agricultural Verification <input type="checkbox"/>						
17	Assessment Use Only - Do Not Write Below This Line	Whole <input type="checkbox"/>						
		Part <input type="checkbox"/>						
18	Assessment Use Only - Do Not Write Below This Line	Need Reference <input type="checkbox"/>						
		Trans. Process Verification <input type="checkbox"/>						
19	Assessment Use Only - Do Not Write Below This Line	Assigned Property No. _____						

Real Property Data Search

Guide to Using the database

Property Located in WASHINGTON COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 03 Account Number - 017346			
Owner Information					
Owner Name:		OLDE TOWNE DEVELOPMENT LLC		Use:	COMMERCIAL NO
Mailing Address:		113 S PATRICK ST ALEXANDRIA VA 22314-3026		Principal Residence:	
				Deed Reference:	/01495/ 00059
Location & Structure Information					
Premises Address:		607 W WASHINGTON ST HAGERSTOWN 21740-0000		Legal Description:	LOT IRREGULAR 607-609 W WASH ST
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0309	0000	0296		0000	
				Block:	Lot:
				Assessment Year:	Plat No:
				2017	432
					Plat Ref:
Special Tax Areas:		Town:		HAGERSTOWN	
		Ad Valorem:			
		Tax Class:			
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use	
1900	15690		5,954 SF		
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
		MIXED RESIDENTIAL / RETAIL		Last Major Renovation	
Value Information					
	Base Value	Value As of 01/01/2017	Phase-in Assessments		
			As of 07/01/2016	As of 07/01/2017	
Land:	47,600	47,600			
Improvements	238,700	235,100			
Total:	286,300	282,700	286,300	282,700	
Preferential Land:	0			0	
Transfer Information					
Seller: VASILEVSKY MICHAEL & FANYA		Date: 05/12/1999		Price: \$93,500	
Type: NON-ARMS LENGTH OTHER		Deed1: /01495/ 00059		Deed2:	
Seller: WISE HAROLD E JR		Date: 04/20/1998		Price: \$155,000	
Type: NON-ARMS LENGTH OTHER		Deed1: /01403/ 00638		Deed2:	
Seller: RENNER LEWIS M		Date: 12/02/1983		Price: \$80,000	
Type: ARMS LENGTH IMPROVED		Deed1: /00754/ 00988		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2016		07/01/2017	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00		0.00 0.00	
Tax Exempt:	Special Tax Recapture:				
Exempt Class:	NONE				
Homestead Application Information					
Homestead Application Status: No Application					

111

Permit No. 2558

9, 1943

Name - R. A. McCauley

Location - rear 613 W. Washington St.

Desc. - 12' x 24' and 8' x 18' concrete block addition
to present 5 car garage, to be used for repair of
trucks

Date of Insp.

Remarks -

Val. \$500

Permit No. 123

May 13, 1947

R. A. McCauley

rr. 613 W. Washington St.

30' x 30' one story concrete block addition to present
garage for workshop

\$500

[Handwritten signature]

Permit No. 6225

November 19, 1962

August Roli

613 West Washington St.

Demolition of two story house, frame construction, one
family dwelling.

613 Car Garage

02.13.17

Address:

613 West Washington Street
Hagerstown, MD 21740

Owner:

Olde Towne Development, LLC
801 N. Pitt Street, 101
Alexandria, VA 22314

District #03, Acct #017338

Tax Map #309, Parcel #295

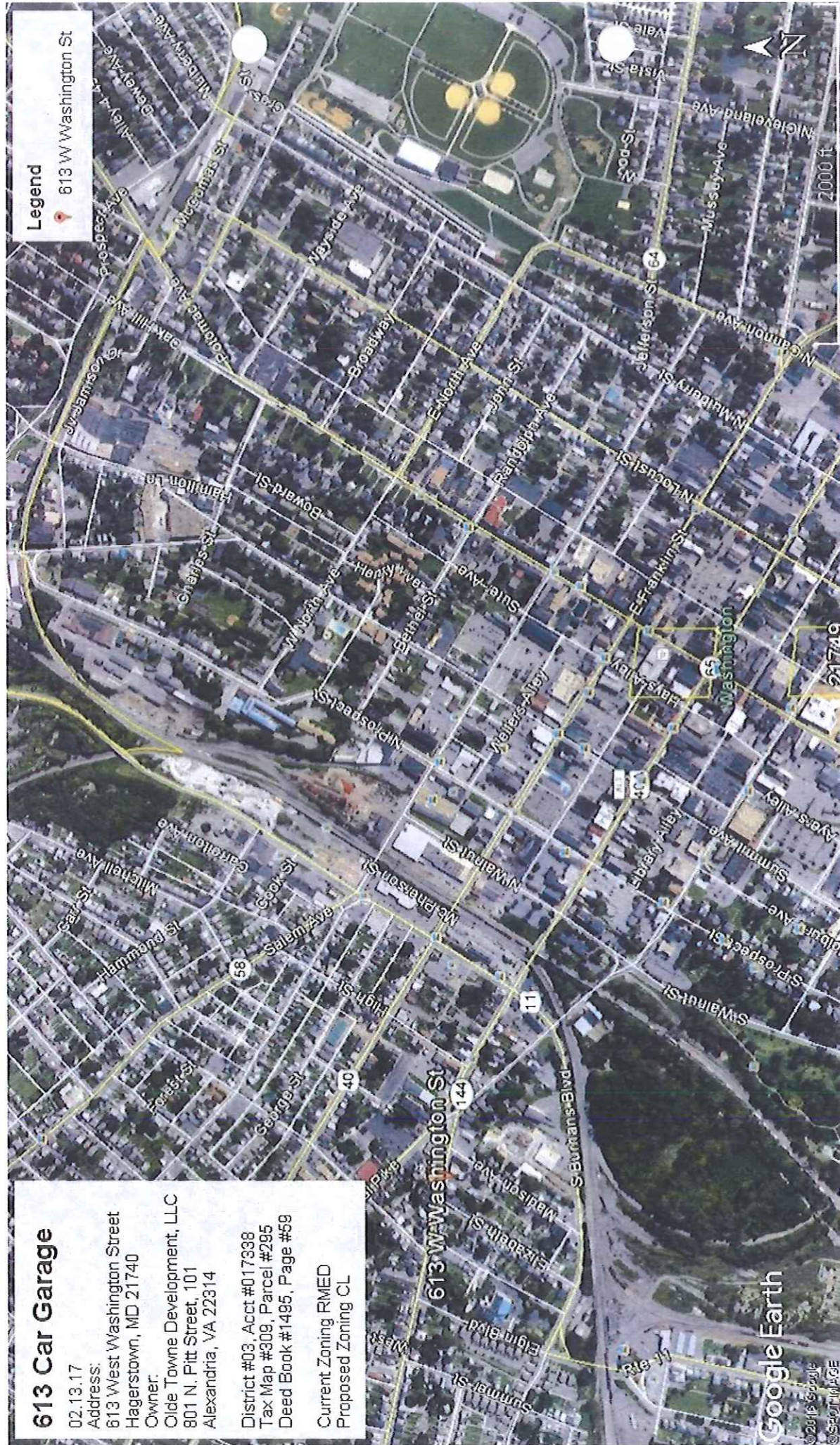
Deed Book #1495, Page #59

Current Zoning RMED

Proposed Zoning CL

Legend

613 W Washington St



613 Car Garage

02.13.17
Address:
613 West Washington Street
Hagerstown, MD 21740
Owner:
Olde Towne Development, LLC
801 N. Pitt Street, 101
Alexandria, VA 22314

District #03, Acct #017338
Tax Map #308, Parcel #285
Deed Book #1495, Page #59

Current Zoning RMED
Proposed Zoning CL

Legend

 613 W Washington St

613 W Washington St

House was Demolished in 1962

607 W Washington Building, Built for an Auto Dealership

613 Car Garage built late 1930's/early '40's, Accessory to 607 Bldg

Google Earth

©2016 Google
©2017 Mapbox

100 ft

N

613 Car Garage

02.13.17

Address:

613 West Washington Street
Hagerstown, MD 21740

Owner:

Olde Towne Development, LLC
801 N. Pitt Street, 101
Alexandria, VA 22314

District #03, Acct #017338

Tax Map #309, Parcel #295

Deed Book #1495, Page #59

Current Zoning RMED

Proposed Zoning CL

Legend

613 W Washington St

613 Car Garage built late 1930's/early '40's, Accessory to 607 Bldg

607 W. Washington Building, Built for an Auto Dealership

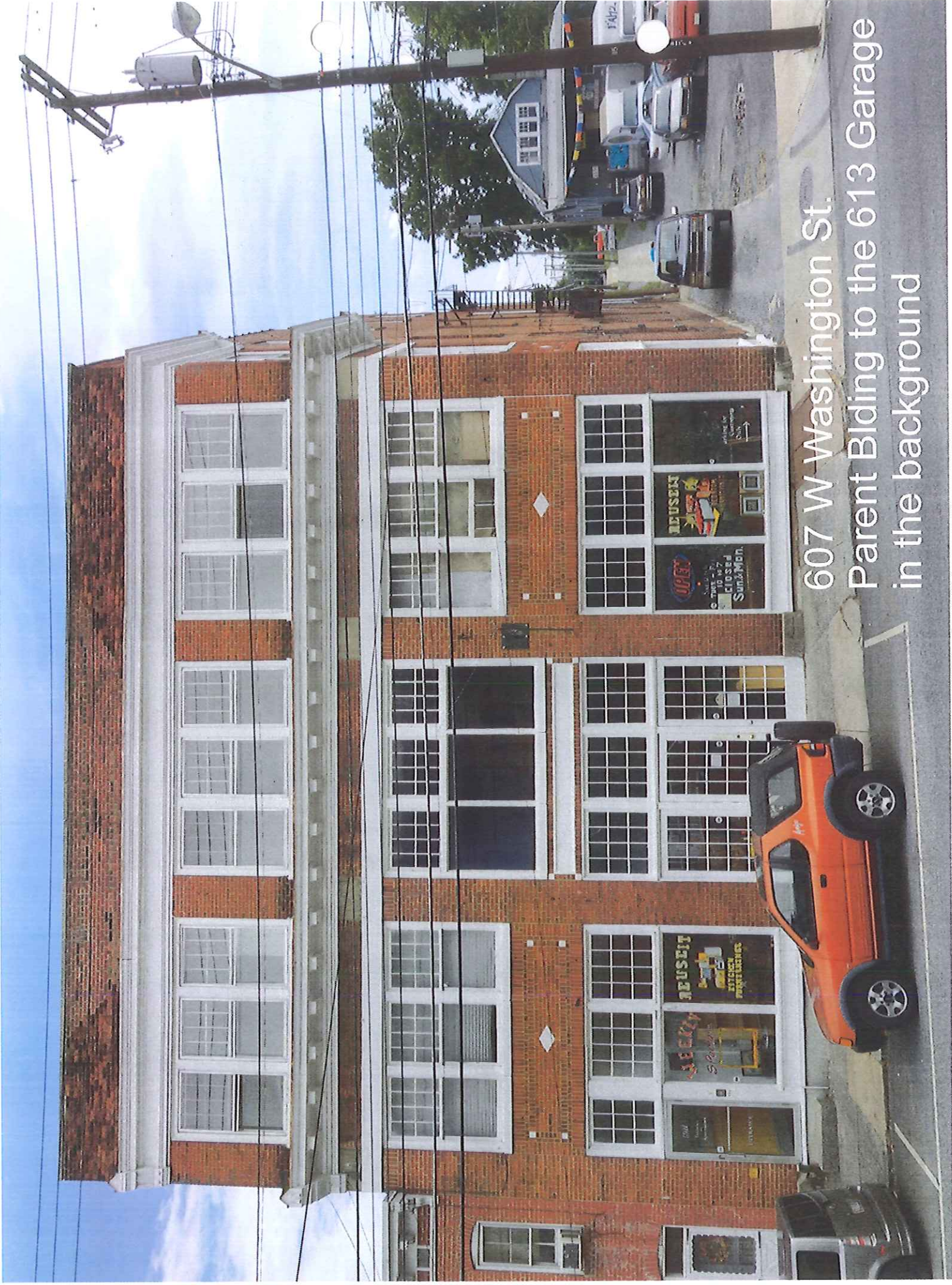
House was Demolished in 1962

613 W Washington St

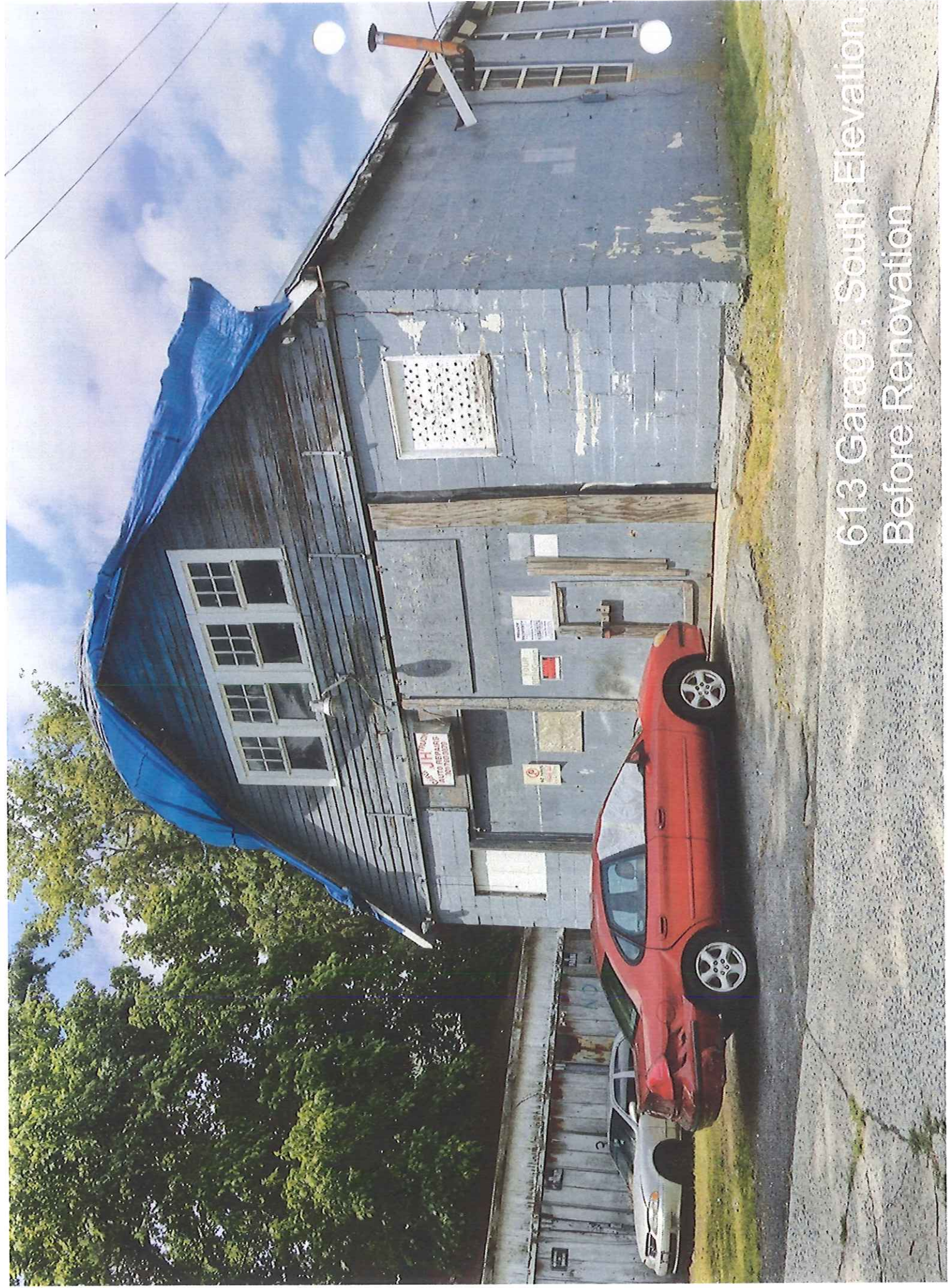
60 ft

Google Earth

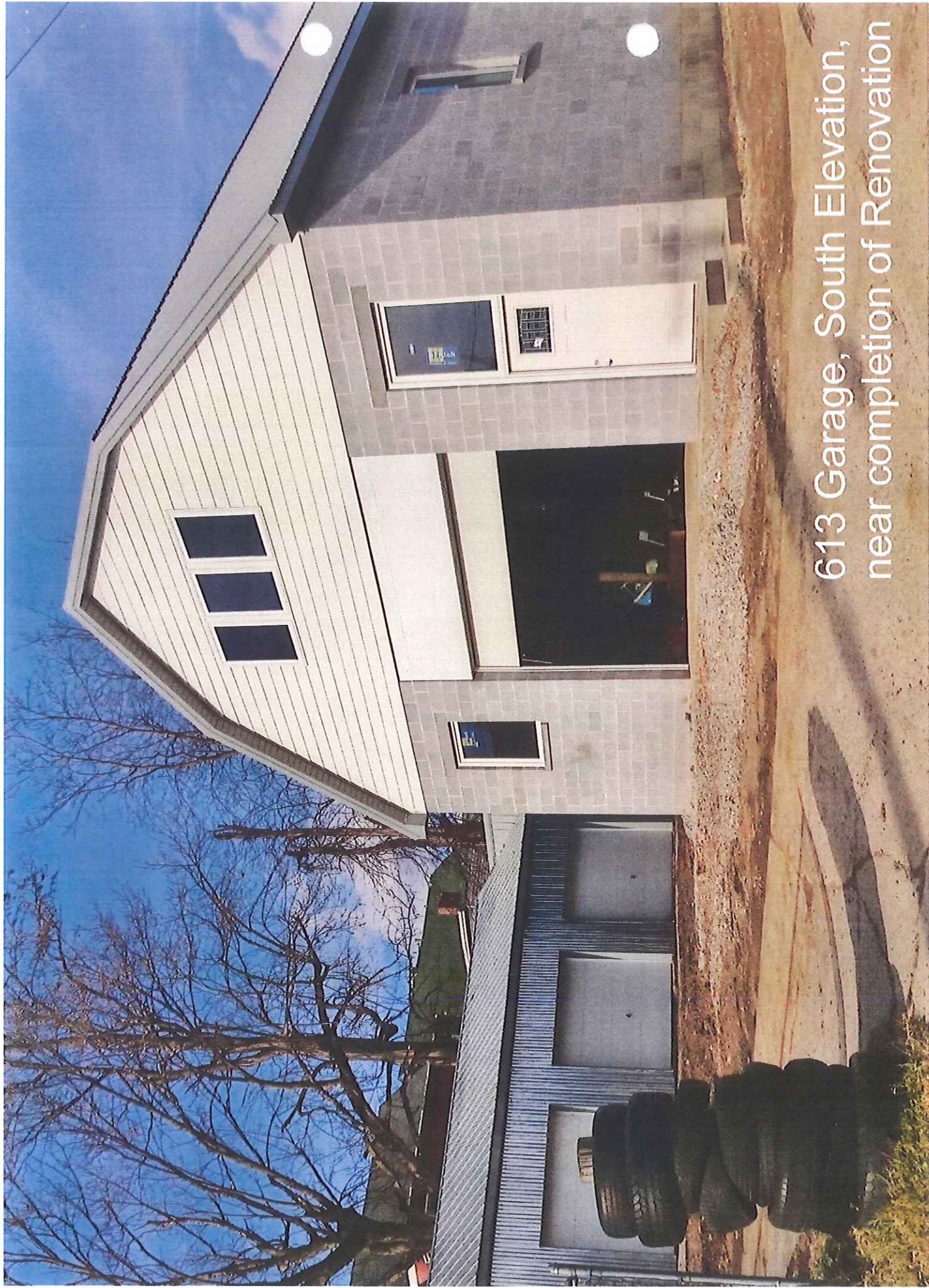
© 2016 Google



607 W Washington St.
Parent Bldg to the 613 Garage
in the background



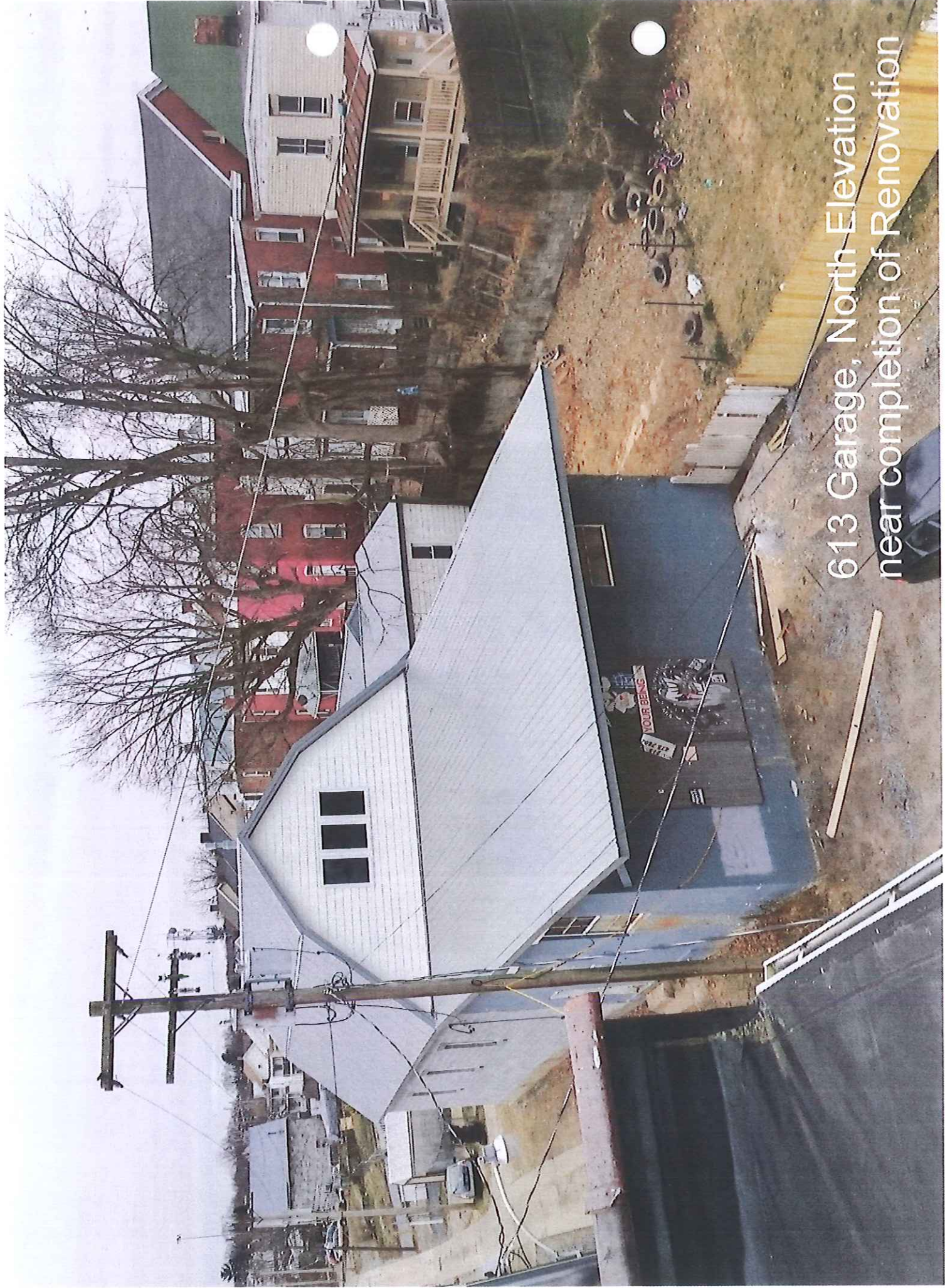
613 Garage, South Elevation
Before Renovation



613 Garage, South Elevation,
near completion of Renovation

613 Garage, North Elevation
before Renovation





613 Garage, North Elevation
near completion of Renovation

REZONING NARRATIVE ADDENDUM

The proposed reclassification of the subject property is based upon a theory of mistake.

At the time the former McCauley building parcel (607-609 West Washington Street) was rezoned CL (Commercial-Local), the subject property (613 West Washington Street) was not similarly rezoned, but was instead rezoned RMED (Residential-Medium Density).

The zoning of the former McCauley building parcel should correspond with the zoning of the subject property. Both properties should have been rezoned CL. The former McCauley building parcel and the subject property have historically been owned and used together for commercial purposes.

A rezoning premised on a theory of mistake may be approved when it is shown that the assumptions or premises relied upon by the Mayor and Council at the time of the comprehensive rezoning were incorrect. Error can be established by showing that, at the time of the comprehensive rezoning, the Mayor and Council failed to take into account then existing facts, so that the legislative action was premised on a misapprehension. *Boyce v. Sembly*, 25 Md.App. 43 (1975)

REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Topic:

Amendment to Water and Wastewater Policy - *Kathleen Maher, Director of Planning and Code Administration*

Mayor and City Council Action Required:

Review of proposed amendments to the Water and Wastewater Policy to add a new Exception #9 for Connection to a proposed new lot of record or existing lot of record for a new single family dwelling or two-family dwelling when well testing failed to gain Health Department approval due to GWUDI issues. The proposal would permit up to three approvals per year by the Utilities Director under certain outlined circumstances.

Discussion:

BACKGROUND

The City adopted a Water and Wastewater Policy in 2004 to reiterate that extension of water and wastewater services would not be made beyond the Urban Growth Area, as defined in the City's Annexation Policy, unless one of seven exceptions outlined in the policy were granted. The County Water and Sewer Plan utilizes the Urban Growth Area as the limits of planned service. At that time, the Annexation Policy utilized the UGA boundaries that were in place at the time of the adoption of our policy in 2002.

The Water & Wastewater Policy was amended in 2008 to set the Hagerstown Medium Range Growth Area as the limit of these City services, consistent with the City's 2008 Comprehensive Plan, unless one of the seven exceptions were granted. State law required the City to adopt a growth boundary in its Comprehensive Plan as the planned limits of annexation. The City's Annexation Policy requires annexation as a condition of service. The Water and Wastewater Policy was amended again in 2009 and 2016.

Water and Wastewater Policy Exceptions

The Water and Wastewater Policy provides possible exceptions for certain situations that are based on identified health concerns, vital improvements to the City water and/or wastewater system, pre-existing agreements with the City, and certain vital economic development projects in targeted areas of the County Comprehensive Plan. The seven exceptions are:

1. The Health Department has condemned, or there is impending failure, of an existing private water or septic system;
2. A system improvement would be provided deemed vital to the enhancement of operation or efficiency of the water and/or wastewater system;
3. Connection to an existing lot of record (predating the policy) for a single-family residence or two-family residence;
4. Redevelopment of property containing an existing system;

4. Redevelopment of property containing an existing customer;
5. There is a pre-existing water or wastewater agreement in place predating the policy;
6. A vital economic development project located in a targeted area for industrial and/or non-retail commercial development;
7. There is a pre-annexation agreement in place predating the policy;
8. Development of an affordable housing project.

Exceptions #1, #3, #4, #5, and #7 are approved by the Director of Utilities, often with input of Planning staff. Exceptions #2, #6, and #8 are approved by the Mayor and City Council with input from the Director of Utilities (#2 and #6) and other officials (#6 and #8).

REQUEST LEADING TO AMENDMENT PROPOSAL

In December, the City was approached by a landowner who would like to subdivide a lot off his farm for a family member to construct a single-family home. The property is outside the Medium Range Growth Area, so the property owner pursued serving the proposed lot by a well. Staff learned that the Health Department required extensive testing of the proposed new well and finally deemed it not potable due to GWUDI contamination issues. GWUDI is 'groundwater under the direct influence' of surface water. Since a proposal to subdivide a new lot for residential development does not meet any of the above exceptions and there is no system improvement that could be done to gain exception #2, the property owner is left without recourse on a means of providing water to the proposed SFR lot for a family member.

GWUDI Issue

In February, City Planning and Utilities staff met with Health Department staff to learn more about this GWUDI issue and the extent of its potential impact in our community. At the meeting, the Health Department advised us that because of the karst geological formations in the Hagerstown Valley there is the potential for groundwater to be affected by surface water on any given well drilling attempt. We were shown a map highlighting two very large areas of the County which the Health Department has identified as 'sensitive areas for well construction' where GWUDI issues have been documented to occur. One area is adjacent to Keedysville and Boonsboro and one area is adjacent to Hagerstown (see attached map of the area on Hagerstown's northwest border). During our discussions we learned that there is no hard and fast rule for what causes a well to fail to gain approval, but is a matter of judgement for Health Department staff based on a variety of factors. When we inquired about on-site treatment options, the Health Department staff informed us that the only acceptable on-site treatment system would involve a certified water treatment officer to oversee the well. We then asked how often this type of situation has arisen and we were informed about once per year over the past 3-5 years.

PROPOSED AMENDMENT FOR GWUDI ISSUES

City staff considered the information from our meeting with the Health Department staff and the potential impact to the City water system from such issues in the future. Given the capacity constraints outlined in the Comprehensive Plan and the limited number of occurrences that the Health Department has seen in recent years, City staff drafted a proposed amendment to the City's Water & Wastewater Policy to add a 9th exception that would allow the Utilities Director to approve up to three requests per calendar year, on a first-come, first-served basis, for a new single-family or two-family residence under the following circumstances:

- a. the Health Department has provided a request with documentation to the Planning and

Utilities Departments that the new well for the proposed new lot or existing lot of record does not meet the minimum criteria for drinking water requirements and the well cannot be approved by the Health Department;

- b. the Health Department's analytical results are consistent with COMAR and this analysis identifies contaminants which are precluded from treatment in new wells per State law;
- c. the proposed lot or existing lot is contiguous to a right-of-way containing a City water line; and
- d. any extension of existing water infrastructure is the responsibility of the landowner requesting service and all required improvements to the water infrastructure shall be in conformance with City Water and Wastewater Standards and Specifications.

Because such requests may occur for land outside the County designated Urban Growth Area and outside Priority Funding Areas, the proposed amendment would require first receiving the approval of the administrative authority of the County Water & Sewer Plan.

Financial Impact:

Recommendation:

City staff sought input from the Health Department and the County Planning and Utilities staff on the proposed amendment. We made minor tweaks to the proposal (incorporated above), but did not go as far as desired by the Health Department, who would prefer a great deal of flexibility for granting of such exceptions. City staff feel the proposed amendment is a reasonable solution to a difficult problem in the County while still respecting the capacity constraints and plans of the City for its utilities.

NEXT STEPS

If in support of the proposed amendments to the Water and Wastewater Policy, Mayor and City Council approval of the amendment on May 23rd.

Motion:

Action Dates:

May 9 - discussion

May 23 - vote on approval?

ATTACHMENTS:

File Name

M_CC_Packet_Amendment_to_Water____Wastewater_Policy_GWUDI_5_2_17.pdf

Description

Amendment
to Water &
Wastewater
Policy




CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration 

DATE: May 2, 2017

SUBJECT: Amendment to Water and Wastewater Policy

ACTION REQUESTED

Review of proposed amendments to the Water and Wastewater Policy to add a new Exception #9 for Connection to a proposed new lot of record or existing lot of record for a new single family dwelling or two-family dwelling when well testing failed to gain Health Department approval due to GWUDI issues. The proposal would permit up to three approvals per year by the Utilities Director under certain outlined circumstances.

BACKGROUND

The City adopted a Water and Wastewater Policy in 2004 to reiterate that extension of water and wastewater services would not be made beyond the Urban Growth Area, as defined in the City's Annexation Policy, unless one of seven exceptions outlined in the policy were granted. The County Water and Sewer Plan utilizes the Urban Growth Area as the limits of planned service. At that time, the Annexation Policy utilized the UGA boundaries that were in place at the time of the adoption of our policy in 2002.

The Water & Wastewater Policy was amended in 2008 to set the Hagerstown Medium Range Growth Area as the limit of these City services, consistent with the City's 2008 Comprehensive Plan, unless one of the seven exceptions were granted. State law required the City to adopt a growth boundary in its Comprehensive Plan as the planned limits of annexation. The City's Annexation Policy requires annexation as a condition of service. The Water and Wastewater Policy was amended again in 2009 and 2016.

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system, pre-existing agreements with the City, and certain vital economic development projects in targeted areas of the County Comprehensive Plan. The seven exceptions are:

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3. Connection to an existing lot of record (predating the policy) for a single-family residence or two-family residence;
4. Redevelopment of property containing an existing customer;
5. There is a pre-existing water or wastewater agreement in place predating the policy;
6. A vital economic development project located in a targeted area for industrial and/or non-retail commercial development;
7. There is a pre-annexation agreement in place predating the policy;
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Exceptions #1, #3, #4, #5, and #7 are approved by the Director of Utilities, often with input of Planning staff. Exceptions #2, #6, and #8 are approved by the Mayor and City Council with input from the Director of Utilities (#2 and #6) and other officials (#6 and #8).

REQUEST LEADING TO AMENDMENT PROPOSAL

In December, the City was approached by a landowner who would like to subdivide a lot off his farm for a family member to construct a single-family home. The property is outside the Medium Range Growth Area, so the property owner pursued serving the proposed lot by a well. Staff learned that the Health Department required extensive testing of the proposed new well and finally deemed it not potable due to GWUDI contamination issues. GWUDI is 'groundwater under the direct influence' of surface water. Since a proposal to subdivide a new lot for residential development does not meet any of the above exceptions and there is no system improvement that could be done to gain exception #2, the property owner is left without recourse on a means of providing water to the proposed SFR lot for a family member.

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system would involve a certified water treatment officer to oversee the well. We then asked how often this type of situation has arisen and we were informed about once per year over the past 3-5 years.

PROPOSED AMENDMENT FOR GWUDI ISSUES

City staff considered the information from our meeting with the Health Department staff and the potential impact to the City water system from such issues in the future. Given the capacity constraints outlined in the Comprehensive Plan and the limited number of occurrences that the Health Department has seen in recent years, City staff drafted a proposed amendment to the City's Water & Wastewater Policy to add a 9th exception that would allow the Utilities Director to approve up to three requests per calendar year, on a first-come, first-served basis, for a new single-family or two-family residence under the following circumstances:

- a. the Health Department has provided a request with documentation to the Planning and Utilities Departments that the new well for the proposed new lot or existing lot of record does not meet the minimum criteria for drinking water requirements and the well cannot be approved by the Health Department;
- b. the Health Department's analytical results are consistent with COMAR and this analysis identifies contaminants which are precluded from treatment in new wells per State law;
- c. the proposed lot or existing lot is contiguous to a right-of-way containing a City water line; and
- d. any extension of existing water infrastructure is the responsibility of the landowner requesting service and all required improvements to the water infrastructure shall be in conformance with City Water and Wastewater Standards and Specifications.

Because such requests may occur for land outside the County designated Urban Growth Area and outside Priority Funding Areas, the proposed amendment would require first receiving the approval of the administrative authority of the County Water & Sewer Plan.

Recommendation

City staff sought input from the Health Department and the County Planning and Utilities staff on the proposed amendment. We made minor tweaks to the proposal (incorporated above), but did not go as far as desired by the Health Department, who would prefer a great deal of flexibility for granting of such exceptions. City staff feel the proposed amendment is a reasonable solution to a difficult problem in the County while still respecting the capacity constraints and plans of the City for its utilities.

NEXT STEPS

If in support of the proposed amendments to the Water and Wastewater Policy, Mayor and City Council approval of the amendment on May 23rd.

Amendment to Water and Wastewater Policy

May 2, 2017

Page 4

Attachments

c: Valerie Means, City Administrator
Mike Spiker, Director of Utilities
Jill Frick, Director of Community & Economic Development
Jason Morton, City Attorney
Alex Rohrbaugh, Planner
Lou Trescott, Health Department
Steve Goodrich, County Planning Director
Julie Pippel, Director of County Division of Environmental Management

City of Hagerstown
Water and Wastewater Policy

Adopted: February 24, 2004

Amended: July 29, 2008, September 22, 2009, October 11, 2016

Amended: _____, 2017

The City of Hagerstown will not extend or expand water or wastewater services beyond the Hagerstown Medium-Range Growth Area or the Hagerstown Long-Range Growth Area as defined in the City's Annexation Policy, and shall not allow new connections to the existing lines located outside the Hagerstown Medium-Range Growth Area or Long-Range Growth Area. Reference: City of Hagerstown 2008 Comprehensive Plan, Policy 4-4. The following eight exceptions may be granted:

1. **Condemnation or Impending Failure of an Existing Private Water or Septic System.** The governing health authority has provided a request with documentation or certification to the Utilities Department that, to obtain a water or wastewater service connection, the existing private water or wastewater system for an existing dwelling or nonresidential building has been condemned, or has impending failure, and a reasonable alternate system is otherwise not available. Service approved by the Utilities Department using this exception is contingent upon acceptance and signing of a service contract by the owner providing for the allocation of costs of extending and maintaining the service to the property and that such service shall be subject to all applicable policies, procedures and practices. Reference: City of Hagerstown 2008 Comprehensive Plan, Policy 4-4.
2. **System Improvement.** Upon the recommendation of the Director of Utilities to, and approval by, the Mayor and Council, a system extension would provide a vital improvement or enhancement to the operation or efficiency of the water and/or wastewater system.
3. **Connection to an Existing Lot of Record for a Single-Family or Two-Family Dwelling.** Service approval by the Utilities Department is contingent upon the following: (a) outside the Long-Range Growth Area, lot was an existing lot of record prior to February 24, 2004; (b) between the Medium-Range Growth Area and Long-Range Growth Area boundaries, lot was an existing lot of record prior to April 22, 2008; (c) lot is contiguous to a right-of-way containing a City water or wastewater line that was in existence at the time the property became a lot of record. Any exception the Utilities Department may determine is warranted will be given with the following limitations and conditions: (a) the maximum allocation shall not exceed two hundred (200) gallons per day for one dwelling unit, or 400 gpd for a two-family dwelling if allowed by County zoning and if it does not involve a subdivision; and b) service is contingent upon acceptance and signing of a service contract by the owner providing for the allocation of costs of extending and maintaining the service to the property and that such service shall be subject to all applicable policies, procedures and practices.

4. **Redevelopment of a Property Containing an Existing Customer.** Service approval by the Utilities Department using this exception is contingent upon there being no addition of land area to the existing lot(s) of record containing the existing customer(s) and there being no increase in the existing allocation as a result of the redevelopment.
5. **Pre-existing Water or Wastewater Agreement.** Service approval by the Utilities Department using this exception is contingent upon a water or wastewater agreement having been in place prior to July 29, 2008, which guaranteed water or wastewater service to this property as a condition of the construction and/or provision of land for the construction of the water or wastewater line at issue.
6. **Economic Development Project.** Service approval using this exception is contingent upon recommendation of the County Commissioners, the City and County Economic Development Directors, and the City Director of Utilities to, and approval by, the Mayor and Council, for a vital economic development project located in a targeted area for industrial and/or non-retail commercial development.
7. **Pre-Annexation Agreement.** Service approval by the Utilities Department using this exception is contingent upon a pre-annexation agreement having been approved by the Planning and Code Administration Division and recorded in the County Courthouse prior to April 22, 2008.
8. **Affordable Housing Project.** Service approval using this exception is contingent upon recommendation of the County Commissioners, the City Administrator or designee, the County Administrator or designee, and the City Director of Utilities to, and approval by, the Mayor and City Council, for an affordable housing project restricted to households with annual incomes up to 80% of AMI (Area Median Income) and located in close proximity to economic development target areas and adjacent to development served by City water and/or wastewater.
9. **Connection to a Proposed New Lot of Record or Existing Lot of Record for a new SFR or DUP when well testing failed to gain approval of the Health Department due to GWUDI issues.** GWUDI is groundwater under direct influence of surface water and it is present in areas of the Hagerstown Valley due to the karst geological formations. A sensitive area where such conditions have been documented to occur has been designated by the Health Department on the northwest side of Hagerstown – an area bounded by I-81, US40, proximity to the Greencastle Pike, and at the Pennsylvania border. Service approval by the Utilities Department is contingent upon the following: (a) The Health Department has provided a request with documentation to the Planning and Utilities Departments that the new well for the proposed new lot or existing lot of record does not meet the minimum criteria for drinking water requirements and the well cannot be approved by the Health Department; (b) Health Department's analytical results are consistent with COMAR and this analysis identifies contaminants which are precluded from treatment in new wells per State law; (c) the proposed lot or existing lot is contiguous to a right-of-way containing a City water line; (d) any extension of existing water infrastructure is the responsibility of the landowner requesting service and all

required improvements to the water infrastructure shall be in conformance with City Water and Wastewater Standards and Specification. The Utilities Director may approve up to three requests per year for this exception. Requests shall be taken on a first come, first served basis each calendar year. Requests for service under this exception which would create a new lot for development outside the County Urban Growth Area must first receive the approval of the administrative authority of the County Water & Sewer Plan.

The granting of exceptions one through five and eight **and nine** above is contingent upon the property owner submitting a pre-annexation agreement to the City of Hagerstown that offers the property for annexation at such time as the corporate boundaries of the City reach the property and the Mayor and City Council determines annexation to be advantageous to the City of Hagerstown. For exception number six above, this pre-annexation agreement requirement may be subject to negotiation between the City of Hagerstown and Washington County.

5/2/17 draft



WASHINGTON COUNTY HEALTH DEPARTMENT

1302 Pennsylvania Avenue • Hagerstown, MD 21742

<http://dhmh.maryland.gov/washhealth>

TRANSMITTAL

TO: Kathleen A. Maher, AICP
Director of Planning and Code Administration

FROM: Sara L. Trescott
Director, Environmental Health

DATE: April 25, 2017

SUBJECT: Sensitive Area Map

Kathy,

Please find a copy of our Washington County sensitive area map for your reference. Additionally, please note that the map delineations may or may not be inclusive, i.e. in discussion with Maryland Department of the Environment, the area(s) may be actually be increasing due to the karst geology as noted by the increase in number of sink hole formations in the area.

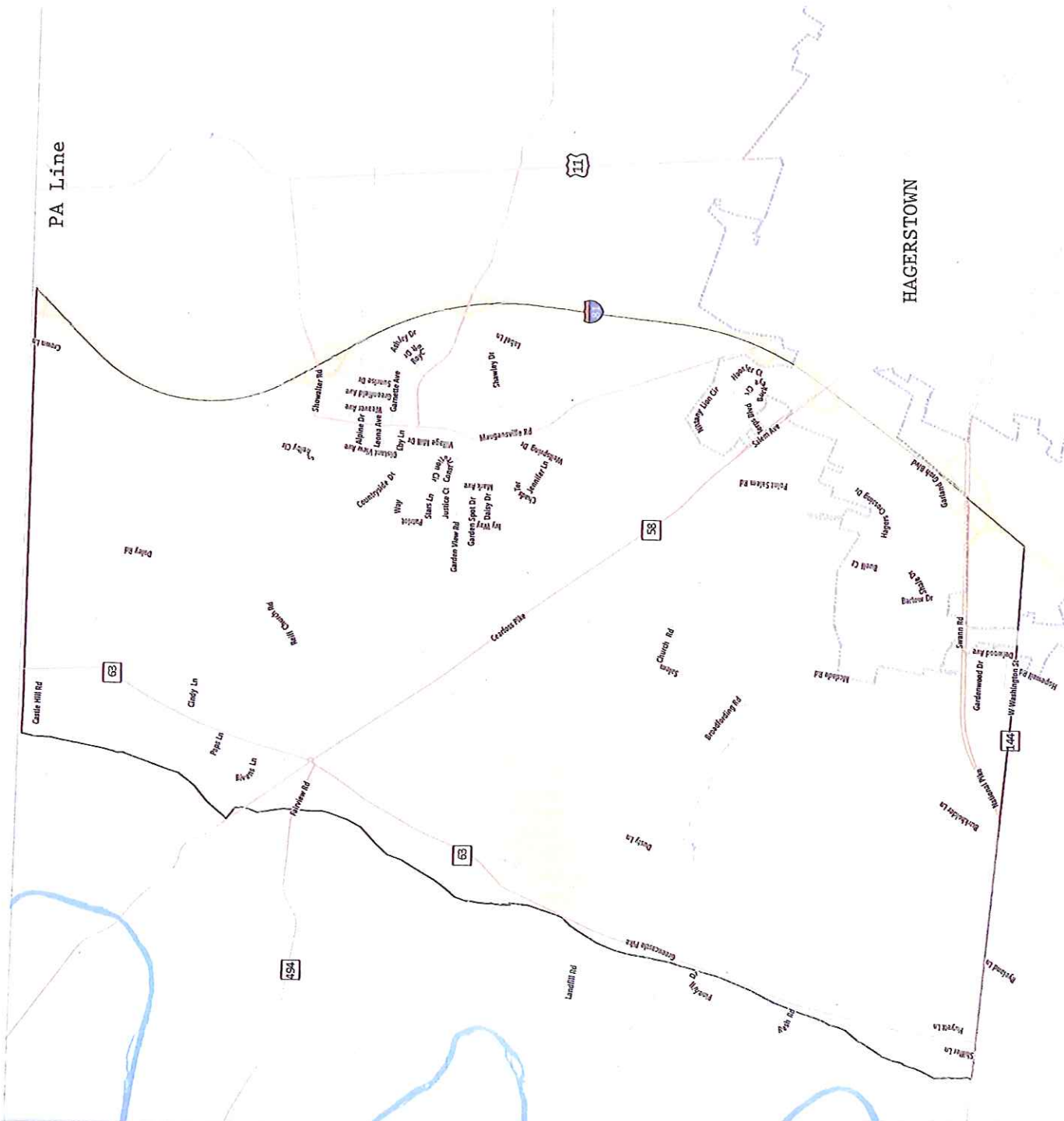
Thanks,

A handwritten signature in blue ink, appearing to be the name "Lou".

Lou

ENVIRONMENTAL HEALTH
1302 Pennsylvania Avenue
Hagerstown, Maryland 21742

"Sensitive Areas for Well Construction" - Prepared by Washington County
Environmental Health Staff 2008



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

Topic:

Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan - *Karen Paulson, Director of Human Resources; Susan Delauter, Benefits and Wellness Administrator*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Amendment_to_Police_and_Fire_Retirement_Plan.pdf

Description

Police & Fire Retirement
Plan Amendment



CITY OF HAGERSTOWN, MARYLAND

Human Resources Department

TO: Valerie Means
City Administrator

FROM: Karen Paulson *Karen Paulson*
Director of Human Resources

Susan Delauter *Susan Delauter*
Benefits and Wellness Administrator

DATE: May 9, 2017

RE: Amendment to the City of Hagerstown Police & Fire Employees' Retirement Plan

Upon a recent review of the Police & Fire Retirement Plan, our CBIZ actuary noted that since we have a governmental plan, we are not required to credit any interest to employee accounts in the Plan. The only employees who benefit from the 5% interest credit are those who terminate employment and request a refund of contributions from the Plan. In 2016, \$5,700 in interest was paid to employees who termed and requested distribution of their contributions. Please note that we will NOT change the 5% interest credit for any voluntary contributions that were transferred from the Maryland State Retirement Plan to the Police Retirement Plan at the start-up of the City of Hagerstown Police and Fire Employees' Retirement Plan. Additionally, any interest earnings already designated will freeze and no additional interest will accrue as of 7/1/17. The interest earned will continue to appear on participant's annual statements.

This is a first step to review potential savings for the Plan and the Retirement Committee will be working on other recommended Plan savings in the next several months with the goal of maintaining the future stability of the Plan and bolstering the funded percentage.

The second part of the Amendment involves expanding the timing for an eligible employee to request the buy-back service time when they are rehired or request to buy service time from a prior employer. The current rule is 90 days after hire to complete this process for a rehire. Ed Adkins, our legal counsel for the Plan recommends extending that timeline.

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

Topic:

Introduction of an Ordinance: Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Amendment_11_-_Introduction_5.9.17.pdf

Description

Ordinance

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: May 9, 2017

TOPIC: Introduction of an Ordinance – Amendment to the City of Hagerstown Police & Fire Employees' Retirement Plan

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

MOTION: I hereby move to introduce an ordinance to amend the City of Hagerstown Police & Fire Employees' Retirement Plan to (1) eliminate interest to be credited on employee contributions (other than refundable contributions transferred from the Maryland State Retirement System) after June 30, 2017, (2) permit a rehired employee to repay a cash-out distribution with interest at any time prior to reaching a termination date, (3) permit the election to transfer prior service with other government employers to be made at any time prior to reaching a termination date, and (4) make administrative clarifications consistent with Maryland law.

DATE OF INTRODUCTION:	05/9/2017
DATE OF PASSAGE:	05/16/2017
EFFECTIVE DATE:	06/16/2017

**ELEVENTH AMENDMENT TO THE
CITY OF HAGERSTOWN POLICE & FIRE EMPLOYEES' RETIREMENT PLAN**

WHEREAS, by the enactment of Chapter 38 of the City Code, the City of Hagerstown established the City of Hagerstown Police and Fire Employees' Retirement Plan (the "Plan"); and

WHEREAS, pursuant to Section 38-65 of the City Code, the City may amend the Plan at any time by Ordinance amending the said Chapter 38; and

WHEREAS, the Mayor and Council of the City of Hagerstown desire to amend the Plan to (1) eliminate interest to be credited on employee contributions (other than refundable contributions transferred from the Maryland State Retirement System) after June 30, 2017, (2) permit a rehired employee to repay a cash-out distribution with interest at any time prior to reaching a termination date, (3) permit the election to transfer prior service with other government employers to be made at any time prior to reaching a termination date, and (4) make administrative clarifications consistent with Maryland law; and

WHEREAS, the Mayor and Council of the City of Hagerstown find the adoption of this amendment to the Plan (known as the Eleventh Amendment to the City of Hagerstown Police and Fire Employees' Retirement Plan) to be in the best interests of the citizens of the City of Hagerstown.

NOW, THEREFORE, Chapter 38 of the City Code is hereby amended as follows, effective as of July 1, 2017:

FIRST CHANGE

Section 38-6 is amended by deleting Paragraph E. in the definition of "Employee Contributions Benefit" and substituting the following new Paragraph E. in that definition:

E. Interest on the amounts described in Subsections A through D credited through June 30, 2017 under the terms of the Plan as in effect before that date; no interest shall be credited for periods after June 30, 2017.

SECOND CHANGE

Section 38-8 is amended by deleting Paragraph D.(2) and substituting the following new Paragraph D.(2) in its place:

- (2) However, if the participant resumes status as a covered employee and, at any time after the resumption of such status and prior to

reaching a termination date, repays to the trust the full amount of the cash-out, plus interest from date of distribution to date of repayment at the rate of 5% per annum compounded annually, his or her accrued benefit will be determined taking into account the participant's years of credited service and his or her vested percentage will be determined taking into account years of eligibility service before as well as after the termination date (subject to the other provisions of this chapter).

THIRD CHANGE

Section 38-17 is amended by deleting Paragraph D. and substituting the following new

Paragraph D. in its place:

D. Adjustment of the amount of benefit payable. For the sole purpose of calculating a participant's accrued benefit and his or her retirement benefits payable under § 38-28, any participant may irrevocably elect, at any time after performing his or her first hour of service as a covered employee and prior to reaching a termination date, to transfer to the plan the amount of any participant contributions made to another government employer retirement plan under which the participant was covered, together with interest previously credited by such plan, provided that such plan permits transfer of contributions to this plan. If a participant so elects, the amount of his or her accrued benefit and the amount of retirement benefit as calculated under § 38-28 shall include an actuarial adjustment for the participant contributions which are transferred, subject to the limit under § 38-17.E.

FOURTH CHANGE

Section 38-17 is further amended by adding the following new Paragraph E.:

E. Adjustment limit. Notwithstanding anything to the contrary in § 38-17.D., if a participant retires within 5 years after transferring into the Plan, the benefits payable with respect to the transferred service credit may not be greater than the benefits that would have been payable by the previous government employer with respect to that service if the participant had remained in the previous government employer, or any other amount permitted under § 37-203(f)(3) of the State Personnel and Pensions Article of the Annotated Code of Maryland.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND the Code of the City of Hagerstown by revising Chapter 38, entitled Police & Fire Employees' Retirement Plan, in order to amend the Plan to (1) eliminate interest to be credited on employee contributions (other than refundable contributions transferred from the Maryland State Retirement System) after June 30, 2017, (2) permit a rehired employee to repay a cash-out distribution with interest at any time prior to reaching a termination date, (3) permit the election to transfer prior service with other government employers to be made at any time prior to reaching a termination date, and (4) make administrative clarifications consistent with Maryland law.

BE IT ORDAINED AND ENACTED by the Council of the City of Hagerstown as follows:

Section 1. Chapter 38 of the Code of the City of Hagerstown, Sections 6, 8, and 17 are hereby amended as provided in the Eleventh Amendment attached hereto:

[See Attached]

Section 2. Effective Date.

This ordinance shall become effective July 1, 2017.

ATTEST:

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN

By: _____
Robert E. Bruchey, II, Mayor

DATE OF INTRODUCTION: 5/9/17
DATE OF PASSAGE: 5/16/17
EFFECTIVE DATE: 6/16/17

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

Topic:

Approval of a Resolution: Financial Incentive Agreement with Ares Investment Group, LLC

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move for Mayor & Council approval of a resolution authorizing the City to enter into a financial incentive agreement with Ares Investment Group, LLC in connection with its redevelopment of the property at 86-98 West Washington Street, referred to as the Hamilton building, and the creation of twenty four (24) new apartments. This incentive will be paid for from general fund Economic Development Incentives line item.

Action Dates:

DATE OF INTRODUCTION: 5/9/2017

DATE OF PASSAGE: 5/9/2017

EFFECTIVE DATE: 5/9/2017

ATTACHMENTS:

File Name

Description

050917_MCC_Packet_ARES_FINANCIAL_INCENTIVE_AGREEMENT.pdf

Approval of
Resolution:
Authorizing a
Financial
Incentive
Agreement
between the
City of
Hagerstown,
Maryland and
Ares

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: May 9, 2017

TOPIC: **Approval of Resolution:** Authorizing a Financial Incentive Agreement between the City of Hagerstown, Maryland and Ares Investment Group, LLC

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

MOTION: I hereby move for Mayor & Council approval of a resolution authorizing the City to enter into a financial incentive agreement with Ares Investment Group, LLC in connection with its redevelopment of the property at 86-98 West Washington Street, referred to as the Hamilton building, and the creation of twenty four (24) new apartments. This incentive will be paid for from general fund Economic Development Incentives line item.

DATE OF INTRODUCTION: 5/9/2017
DATE OF PASSAGE: 5/9/2017
EFFECTIVE DATE: 5/9/2017

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY
OF FINANCIAL INCENTIVE AGREEMENT FOR THE IMPROVEMENT
OF THE PROPERTY KNOWN AS 86-98 WEST WASHINGTON
STREET, HAGERSTOWN, MARYLAND
AND THE CREATION OF PERMANENT NEW JOBS
BETWEEN THE CITY OF HAGERSTOWN ("THE CITY") AND
ARES INVESTMENT GROUP, LLC ("ARES")**

RECITALS

WHEREAS, the City has, as one of the initiatives of the Community's City Center Plan, support of new residential development downtown; and

WHEREAS, Ares owns improved real property 86-98 West Washington Street, Hagerstown, Maryland ("the Hamilton Building");

WHEREAS, Ares intends to create jobs and to improve the Hamilton Building, by creating at least twenty-four (24) new apartments on the third, fourth and fifth floors of that building and by improving the lobbies, corridors, stairs and elevators by which to access the 3rd-5th Floors is gained ("the Project");

WHEREAS, the City has agreed to provide a monetary incentive to Ares to assist with the creation of new jobs and the Project;

WHEREAS, Ares has paid 100% of outstanding code violation fines and interest incurred by it for violations in or near the Hamilton Building;

WHEREAS, Ares had paid 100% of the outstanding utilities debt and interest for the real property located at 201 S. Cleveland Avenue, Hagerstown, which debt and interest were incurred by its property management arm, UGO, LLC;

WHEREAS, Ares has, and shall maintain in good-standing, its current City of Hagerstown Upper Floor Redevelopment loan in the amount of \$100,000 at 0% interest with a maturity date of February 22, 2021 and obligated under the name Ares Investment Group LLC;

WHEREAS, Ares has submitted project scope of work documents and a project budget which demonstrates a match to the requirements of the City;

WHEREAS, Ares has submitted an application for the Enterprise Zone Program in connection with the Hamilton Building;

WHEREAS, Ares shall invest or cause to be invested at least \$2,700,000 in eligible project costs associated with the Project on or before August 31, 2018 and shall furnish proof of same to the City;

WHEREAS, the City desires to encourage the redevelopment of the Hamilton Building and the creation of permanent new jobs by providing a Financial Incentive Agreement which shall make available the following benefits: waiver of building permits; fast track permitting; incentive grant; and parking for student tenants;

WHEREAS, attached hereto and incorporated herein is a Financial Incentive Agreement for the renovation of the Hamilton Building and the creation of permanent new jobs as aforesaid; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the City and citizenry to enter into this Financial Incentive Agreement.

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

1. That the foregoing recitals are incorporated herein as if fully set forth.

2. That the award of benefits, including waiver of building permits; fast track permitting; incentive grant; and parking for student tenants in exchange for the renovation of the property known as 86-98 West Washington Street, Hagerstown, Maryland, and the creation of permanent new jobs in that location is approved.

3. That the City of Hagerstown be and is hereby authorized to execute the Financial Incentive Agreement, for the redevelopment of the improvements on the property known as 86-98

West Washington Street, Hagerstown, Maryland, and the creation of permanent new jobs in that location, a copy of which is attached hereto, and to execute such other and further documents as are necessary to effectuate the same.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk
Mayor

By: _____
Robert E. Bruchey, II,

Date of Introduction: May 9, 2017
Date of Passage: May 9, 2017
Effective Date: May 9, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

FINANCIAL INCENTIVE AGREEMENT
by and between
the City of Hagerstown, Maryland,
and Ares Investment Group, LLC

THIS FINANCIAL INCENTIVE AGREEMENT ("Agreement") is made and entered this _____ day of _____, 2017 by and between the City of Hagerstown, Maryland ("the City"), and Ares Investment Group, LLC, ("Ares").

RECITALS

WHEREAS, the City has, as one of the initiatives of the Community's City Center Plan, support of new residential development downtown; and

WHEREAS, Ares owns improved real property 86-98 West Washington Street, Hagerstown, Maryland ("the Hamilton Building");

WHEREAS, Ares intends to create jobs and to improve the Hamilton Building, by creating at least twenty-four (24) new apartments on the third, fourth and fifth floors of that building and by improving the lobbies, corridors, stairs and elevators by which to access the 3rd-5th Floors is gained ("the Project");

WHEREAS, the City has agreed to provide a monetary incentive to Ares to assist with the creation of new jobs and the Project;

WHEREAS, Ares has paid 100% of outstanding code violation fines and interest incurred by it for violations in or near the Hamilton Building. Ares' final payment was \$14,890.93, inclusive of interest through the payment date of February 28, 2017;

WHEREAS, Ares had paid 100% of the outstanding utilities debt and interest for the real property located at 201 S. Cleveland Avenue, Hagerstown, which debt and interest were incurred by its property management arm, UGO, LLC. Ares' payment was \$9,477.36, inclusive of interest through the payment date of November 17, 2016;

WHEREAS, Ares has, and shall maintain in good-standing its current City of Hagerstown Upper Floor Redevelopment loan in the amount of \$100,000 at 0% interest with a maturity date of February 22, 2021 and obligated under the name Ares Investment Group LLC;

WHEREAS, Ares has submitted project scope of work documents and a project budget which demonstrates a match to the requirements set forth in Sections 2.D. and 2.E., *below*; and

WHEREAS, Ares has submitted an application for the Enterprise Zone Program in connection with the Hamilton Building, a copy of which is attached hereto as **Exhibit 1**.

Therefore, for and in consideration of the incentives and guaranty hereinafter provided and the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the City and Ares do contract and agree as follows:

1. **Definitions.**

In addition to any other terms defined herein, the following terms shall have the meaning set forth with respect thereto.

A. Apartment: An apartment is defined as an efficiency apartment with a kitchen and bathroom or a one (1)-bedroom or more apartment with a kitchen and one (1) or more bathrooms to be occupied by 1 resident per efficiency or 1 resident per bedroom. Dormitories or Single Room Occupancy (SRO) configurations which may include shared bathrooms and shared kitchens do not qualify as an apartment.

B. Project: The creation of twenty-four (24) new apartments on the third, fourth and fifth floors of the Hamilton Building, including improvement of the lobbies, corridors, stairs and elevators by which to access the third, fourth and fifth floors is gained, with all such work to be performed in accordance with the standards set forth in Paragraphs 2.E and 2.F.

- C. Eligible Project Costs: Those costs associated with the creation of the Project. These would include construction, the installation of equipment, furnishings, fixtures, leasehold improvements, site improvements and infrastructure improvements associated with the Project. Ares shall invest or cause to be invested at least \$2,700,000 in Eligible Project Costs on the Project on or before August 31, 2018.
- D. Interest Rate: Three per cent (3%) fixed per annum.
- E. Clawback: Previously given monies or benefits from the City provided pursuant to this Agreement which will be paid back by Ares in the event of its non-compliance with any requirements of this Agreement.

2. **Incentive Package.**

The City and Ares agree that the incentive contemplated herein shall be governed by the following provisions:

- A. *Waiver of building permits.* Subject to the requirements of this Section 2, the City shall waive the cost of building permit fees at the time of issuance of same for the work performed on the Project, with said waived fees not to exceed \$18,000. Said waived fees may include, at the option of the City, issuing a retroactive credit for building permit fees paid on or since October 25, 2016. Improvements made to other sections of the Hamilton Building and/or during later phases are not included in this incentive.
- B. *Fast Track Permitting.* The City may elect to process plan review quickly, provided that complete sets of signed and sealed plans are included with the permit application, and that the contractor has up to date licensing with the City. If any State reviews are required, the City may coordinate with State agencies and encourage their fast-tracking, also. City staff are available to confer with representatives from Ares in advance and discuss projects, to ensure that both parties understand what is involved with the re-use of the property and what permitting may be required. City staff are also available to walk through the property

with Ares' representatives to discuss any code issues that might be observed or may arise.

- C. *Incentive Grant.* Annual grant to Ares equal to the amount paid in City real property tax payments on the Hamilton Building, after reduction by all other tax incentive programs which the property qualifies for, such as the State Enterprise Zone, A&E or other City residential tax credit programs, for a period of five (5) years, beginning with the tax year following the receipt of a certificate of occupancy for the work which is the subject of this Agreement. (In other words, if the work is completed and a certificate of occupancy is granted on or before June 30, 2017, then the incentive grant shall be applied to Ares' fiscal 2018 taxes; if the work is completed and a certificate of occupancy is granted after June 30, 2017, but on or before June 30, 2018, then the incentive grant shall be applied to Ares' fiscal 2019 taxes.) Ares shall participate in the Enterprise Zone Program as a precondition to receipt of the Incentive Grant for each of the five (5) years. *The Incentive Grant will be administered in the form of a grant, rather than a tax waiver or reduction.* Therefore, Ares must pay in full the property tax liability each year, before the City will issue the grant amount back to Ares. Partial or late tax payments shall not qualify for the Incentive Grant as to that tax year. The Incentive Grant is limited to City property tax only, and does not include County property tax.
- D. *Parking for Student Tenants.* Beginning the earlier of August 18, 2018 or the completion date of the Project, the City shall issue one (1) non-transferable parking permit per student tenant for up to eight (8) tenants each year. Permits shall be for use in any City-owned parking facility (lots or decks), subject to availability and assignment by the City. Each permit shall be for one year's duration, shall be assigned to a specific student tenant, and if a student tenant should vacate his/her apartment at any point during the year, then no further benefit shall accrue for any other tenant, and Ares shall assure the permit is promptly returned to the City. There shall be no charge to Ares for the first year of parking provided pursuant to this Paragraph; for the next four (4) years, Ares shall pay one-half of the then-current

rate for each parking permit issued. Thereafter, any parking permits purchased by Ares shall be at the City's regular rate.

- E. Ares shall invest or cause to be invested at least \$2,700,000 in Eligible Project Costs associated with the Project on or before August 31, 2018, and shall furnish to the City documentation matching the submitted project scope of work and project budget, as well as proof of expenditure of \$2,700,000.
- F. Ares shall complete the Project in accordance with the following guidelines and standards:
 - 1. The building and all core systems must meet all City of Hagerstown code requirements upon project completion. The core systems include:
 - a. Base lighting, emergency and exit lighting for the first floor corridor, first floor lobby, Stair A, Stair B, Stair C, Stair D, elevator, and 3rd and 4th floor corridors, in accordance with the Building and Life Safety Codes.
 - b. Central HVAC providing adequate heat and ventilation for each apartment, common area, stairway, and elevator in accordance with the Mechanical Code.
 - c. Required fire separation between the tenant space and corridors and exit access in accordance with the Building Code. If building plans show individual tenant spaces at start of project, required fire separation between tenant spaces must be complete prior to time each space is presented to tenant for finishing/fit out.
 - d. Accessible routes, accessible toilet facilities, accessible entrances and exits are all required items for the common areas of the Hamilton Building in accordance with the Maryland Accessibility Code and the Building Code.
 - e. Phone/datacom wiring from the main point of service to each apartment.

- f. Completed building thermal envelope in accordance with the Energy Conservation Code.
 - g. Address identification for the building.
 - h. Automatic sprinkler protection in accordance with the Building Code.
- 2. The following amenities shall be included in each residential unit:
 - Central HVAC system.
 - Washer and dryer.
 - Dishwasher.
 - Wood veneer or solid wood kitchen and bathroom cabinets.
 - Approved solid surface counter tops in kitchen and bathrooms.
 - Refinished or new hardwood floors or wall-to-wall carpeting in areas other than kitchen and bathrooms.
 - Where possible, outdoor amenities should be provided for tenants (e.g., balconies, roof top decks, back porches, sunrooms, etc.).
 - 3. Each apartment shall meet the following minimum square footages requirements:
 - 500 Sq Ft for an efficiency unit.
 - 650 Sq Ft for a one-bedroom unit.
 - 800 Sq Ft for a two-bedroom unit
 - 1,000 Sq Ft for a three-bedroom unit.
 - 4. Ares shall submit a detailed marketing plan on or before August 1, 2017 that demonstrates how it plans to attract residential tenants to the project.
 - 5. If at any time in the future, the 3rd, 4th or 5th floors might be used for Artist Live-Work Spaces, the following minimum amenities must be included in each live-work unit:
 - Central HVAC system.
 - Washer and dryer hook-ups and dishwasher connections.
 - Ability to vent odors to the outdoors in accordance with the Mechanical Code.

- Plumbed to allow for easy installation of slop sinks.
- Utility capacity to meet needs of different art forms, including electric, gas, water and wastewater.
- Fully wired for new technologies.
- Fully sprinklered.
- Sound transmission rating between units of a minimum STC 60 for partition walls.
- Where possible, outdoor amenities should be provided for tenants (e.g., balconies, roof top decks, back porches, sunrooms, etc.).

6. If at any time in the future, the 3rd, 4th or 5th floors might be used for Artist Live-Work Spaces, any live-work unit created must meet the following minimum square footage requirements:
 - 1,000 sq.ft. for an efficiency unit.
 - 1,300 sq.ft. for a one-bedroom unit.
 - 1,600 sq.ft. for a two-bedroom unit.
 - 2,000 sq.ft. for a three-bedroom unit.

G. *Code Flexibility For Rehabilitation of Existing Buildings.* All plans submitted for the renovation of existing buildings will be evaluated as required and permitted by the scope to either the 2015 International Building Code (2015 IBC) or the Maryland Building Rehabilitation Code (MBRC) depending on what is submitted by the Architect. The Maryland Building Performance Standards (MBPS) applies to new construction. The Maryland Building Rehabilitation Code (MBRC) applies to the renovation of existing buildings. Many code requirements for new construction are not applicable for projects involving the renovation of an existing building, thus providing some code flexibility. The Maryland Building Rehabilitation Code (MBRC) is the International Existing Building Code (IEBC) with amendments by the State of Maryland.

H. Ares shall complete the Project, and all twenty-four (24) apartments shall be certified for occupancy on or before August 31, 2018.

I. The City recognizes that properties owned fully or partially by Ares under any entity name associated it,

including but not limited to Ares Investment Group, LLC, Polar, Inc., and Ariston Real Estate Group (collectively "Ares Properties") are in need of ongoing maintenance, repair and/or redevelopment. Ares agrees not to permit any Ares Properties to deteriorate to a condition of greater disrepair from the existing condition as of the date of this Agreement. The City will continue to enforce codes on all Ares Properties.

On November 14, 2016, the Director of the Planning and Code Administration Department outlined a strategy with the property owner for addressing the code violations at the Delta Building at 66-70 W. Washington Street in recognition of Ares's future plan for the Delta Building. This strategy included securing the back of the property to keep the public away from the deteriorating elements, resuming HDC review of the demolition and new construction plans in the first half of 2017 once the permit for the Project was issued, and implementation of the plan to resolve the code violations in the second half of 2017 after completion of the Project. Given the delays in the resumption of the Project, an updated schedule for the above strategy shall be developed by Ares and the Planning and Code Administration Department.

The City shall not be responsible or liable for any unsafe condition at the Delta building as a result of delays in completion of the Project. If deterioration accelerates or other issues arise which raise concerns about public safety, the City will re-assess the delayed compliance strategy outlined above. Ares shall be fully responsible and liable for unsafe conditions on all Ares Properties.

J. In the event that Ares:

- ▶ fails to maintain in good-standing its current City of Hagerstown Upper Floor Redevelopment loan in the amount of \$100,000 at 0% interest with a maturity date of February 22, 2021 and obligated under the name Ares Investment Group LLC;
- ▶ fails to complete the Project, in accordance with Paragraphs 2.D and 2.E., including lobby, corridors, stairs and elevators, and with all twenty-four (24) apartments certified for occupancy on or before August 31, 2018;

- ▶ fails to maintain the Project, including but not limited to all twenty-four (24) apartments, as habitable and in full compliance with the Rental Facilities Ordinance (Chapter 197 of the Code of the City of Hagerstown, as amended from time to time) during any year in which it seeks payment of the Incentive Grant;
- ▶ fails to invest or cause to be invested at least \$2,700,000 in Eligible Project Costs associated with the Project on or before December 31, 2017;
- ▶ files for bankruptcy or receivership (voluntary or involuntary);
- ▶ fails to maintain good-standing on all other developer debts, taxes and any other obligations to the City;
- ▶ becomes a tax-exempt entity; or
- ▶ fails to comply with the terms of Paragraph I:

Then the full and entire amount of the incentives credited as indicated in Sections 2.A and 2.C. herein, plus interest at the Interest Rate, will be due and payable to the City within ten (10) days after demand by the City. In addition, Ares shall not be entitled to any current and/or future incentives otherwise available to it under this Agreement.

- K. The City shall continue to enforce the Code as to all Ares Properties.
 - L. If any apartment(s) is/are damaged by fire, storm, the elements, acts of God, unavoidable accident and/or the public enemy to such an extent as to render the same wholly or partially uninhabitable, then this Agreement may, at the sole election of the City, thereupon become null and void, and no further Incentive Payment shall be due effective the date of such happening; alternatively, the City may elect to suspend the operation of this Agreement until such time as the apartment(s) has/have been restored to habitable condition and certified for occupancy.
3. **Default.** In the event of a default by Ares of any term, provision or condition of this Agreement, the City shall be permitted to:
- A. Clawback funds provided to Ares by the City as indicated in Section 2; clawback any fees and/or

interest waived by the City, as indicated in Section 2.

- B. Pursue any other rights at law or in equity, including but not limited to the right to recover consequential damages resulting from Ares's default.

In any action brought by or against the City in the interpretation or enforcement of this Agreement, Ares, in addition to all other damages, shall pay the reasonable value of attorney's services incurred by the City in such action, together with the City's litigation expenses and court costs. This provision shall apply regardless of whether the City is represented in such proceedings by an attorney already employed by (or on retainer with) the City.

4. **Notice.** All notices and correspondence under or regarding this Agreement or any provisions hereof shall be in writing and shall be hand-delivered or sent postage prepaid by either (i) United States mail, certified, return receipt requested, or (ii) for delivery the next business day with a nationally recognized express courier:

To Ares at:

Ares Investment Group, LLC
12803 Oak Hill Avenue, Suite 1A
Hagerstown, Maryland 21742
Attention: Mr. Ash Azadi, Managing Partner
(with a copy to attorney: Richard S. Stern, 932 Hungerford Drive, Suite 37A, Rockville, MD 20850)

To the City at:

City of Hagerstown
1 East Franklin Street
Hagerstown, Maryland 21740
Attention: Valerie A. Means, City Administrator
(with a copy to Jason Morton, City Attorney, 82 West Washington Street, Suite 100, Hagerstown, Maryland 21740)

5. **Laws of Maryland.** This Agreement was made and entered into in the State of Maryland and is to be governed by and construed under the laws of the State of Maryland. The parties hereby consent to the exclusive jurisdiction and venue of the Maryland State Courts located in Washington County, Maryland for the litigation of any issue arising hereunder.

6. **Recitals.** The Recitals are hereby incorporated into this Agreement as substantive provisions.
7. **Entire Agreement: Modification.** This Agreement constitutes the entire agreement and understanding of the parties. There are no other promises or other agreements, oral or written, express or implied between the parties other than as set forth in this Agreement or in the Promissory Notes as referenced herein. No change or modification of, or waiver under, this Agreement shall be valid unless it is in writing and signed by authorized representatives of the parties.
8. **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.
9. **Waiver.** Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Agreement.
10. **Survival.** The covenants contained herein or liabilities accrued under this Agreement which, by their terms, require their performance after the expiration or termination of this Agreement shall be enforceable notwithstanding the expiration or other termination of this Agreement.
11. **Counterparts/Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or photocopy of a signature of a party shall constitute an original signature, fully binding the party for all purposes.
12. **Assignment.** This Agreement may not be assigned by either party without the express written consent of the other party.
13. **Successors Bound.** This Agreement shall be binding on and shall inure to the benefit of the successors, permitted assigns, and legal representatives of the parties hereto.

14. **This Agreement** is contingent upon approval of the same by the Mayor and City Council and said approval becoming legally effective.

IN WITNESS WHEREOF, the parties have executed this Agreement under their respective seals as of the day and year first above written.

WITNESS:

ARES INVESTMENT GROUP, LLC

BY: _____ (SEAL)

ATTEST:

CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

BY: _____ (SEAL)

Robert E. Bruchey, II, Mayor

FINANCIAL INCENTIVE AGREEMENT

by and between
the City of Hagerstown, Maryland,
and Ares Investment Group, LLC

EXHIBIT 1



October 25, 2016

Ares Investment Group, LLC
C/o Ash Azadi
12803 Oak Hill Avenue, Suite A1
Hagerstown, Maryland 21742

NOTICE OF ENTERPRISE ZONE QUALIFICATION(S)

We are pleased to inform you that **Ares Investment Group, LLC.** has **fulfilled** the local requirements to receive the following incentives of our Enterprise Zone Program:

Hagerstown –Washington County Enterprise Zone – Central Business District

X **Property Tax Credits** (*First Credit for Tax Year 2017-2018*)

N/A **Job Credits** (Income Tax Credits Disadvantaged Employees)

State Income Tax Credits: \$3,000 first year; \$2,000 second year; \$1,000 third year. This credit is only available for full time employees, working 35 hours or more per week. You may not claim the credit for an employee who leaves or is terminated for any reason before completing six (6) consecutive months of employment. Each year of credit is available only if the disadvantaged worker remains employed during that period or is replaced by an eligible disadvantaged employee. Credits end if a non-disadvantaged worker replaces a disadvantaged worker. Tenant qualifies, but needs to fulfill required administrative process.

N/A **Job Credits** (Income Tax Credits Non-disadvantaged Employees)

State Income Tax Credits: \$1,000 first year. This credit is only available for full time employees working 35 hours or more per week. You may not claim the credit for any employee who leaves or is terminated for any reason before completing six (6) consecutive months of employment.

Any eligible property tax credits should begin automatically with the July 1st bill following the calendar year in which the project was completed. Please contact the Department of Business Development (DBD) at 240-313-2280 if tax credits are not included in your tax bill for real property. Property tax credits are available for a ten-year period, as outlined in current Enterprise Zone Qualification information.

Sincerely,



Robert P. Mandley
Business Development Specialist

Attached: Request Application – COPY
SDAT Property Description

For: **Ares Investment Group, LLC**
90-98 West Washington Street
Hagerstown, MD 21740
Property Account: 25-026640

cc: Sean Powell, MD Assessments & Taxation
Theresa Dolbow, MD Assessment & Taxation
Melissa Adelberger, MD Assessments & Taxation
David Ghee, DLLR
Merlin Williams, DLLR
Eugene Thomas, Comptroller of Maryland, Revenue Administration
Stacy Kubofcik, Md Department of Commerce (emailed)
Todd Hershey, Treasurer Washington County (emailed)
Sara Greaves, Washington County Budget & Finance (emailed)
Donna Anders – Washington County Division of Budget & Finance (emailed)
Jill Frick, - Director of Community & Economic Development (emailed)

View Map			View GroundRent Redemption			View GroundRent Registration			
Account Identifier:			District - 25 Account Number - 026640						
Owner Information									
Owner Name:		ARES INVESTMENT GROUP LLC				Use: Principal Residence:		COMMERCIAL NO	
Mailing Address:		12803 OAK HILL AVE SUITE A1 HAGERSTOWN MD 21742-0000				Deed Reference:		/02926/ 00633	
Location & Structure Information									
Premises Address:		90 W WASHINGTON 90-96 ST HAGERSTOWN 21740-0000				Legal Description:		0.645 ACRES 90-96 W WASHINGTON	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0306	0000	0076		0000				2017	Plat Ref:
Special Tax Areas:			Town: Ad Valorem: Tax Class:			HAGERSTOWN			
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use	
1884		57401				28,099 SF			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
		OFFICE BUILDING							
Value Information									
			Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2016 As of 07/01/2017				
Land:			140,400	140,400					
Improvements			248,700	248,700					
Total:			389,100	389,100	389,100				
Preferential Land:			0						
Transfer Information									
Seller: AZADI MOHAMMAD				Date: 02/16/2006		Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /02926/ 00633		Deed2:			
Seller: S & M PARTNERSHIP				Date: 12/02/2005		Price: \$0			
Type: NON-ARMS LENGTH OTHER				Deed1: /02908/ 00746		Deed2:			
Seller: EAST BAY COMPANY LTD				Date: 10/03/2002		Price: \$700,000			
Type: ARMS LENGTH IMPROVED				Deed1: /01841/ 00476		Deed2:			
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00		0.00			
Tax Exempt:			Special Tax Recapture:						
Exempt Class:			NONE						
Homestead Application Information									
Homestead Application Status: No Application									

1. This screen allows you to search the Real Property database and display property records.
2. Click **here** for a glossary of terms.
3. Deleted accounts can only be selected by Property Account Identifier.
4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.

Request for Enterprise Zone Qualification

For Application Processing Purposes, You Must Complete ALL Questions Below:

Is the applicant: ☐ New ☐ Expanding ☐ Relocating ☒ Renovating

Name of the Business (products/services) in the Enterprise Zone: Ares Investment Group, LLC

North American Industry Classification System (NAICS) code: 531110

Contact Person: Ash Azadi

Mailing Address: 12803 Oak Hill Avenue, Suite A1, Hagerstown, MD 21742

Telephone Number: (202) 369 9579

Facsimile Number: (301) 733 1644

Signature of Person Completing Form: Ash Azadi Date: 10-17-2016

Printed Name/Title of Person Completing Form: Ash Azadi, Managing Partner

Please check appropriate Enterprise Zone below:

☒ City of Hagerstown/Washington County Enterprise Zone

☐ Hancock Enterprise Zone

For Local Property Tax Credits Only (Construction or Rehabilitation of Buildings):

Note: The Enterprise Zone Program requires a minimum of capital investment. Proof of expenditures for construction may be required.

Address of Property in the Enterprise Zone: 90-98 West Washington Street

Name of Property Owner: Ares Investment Group, LLC

Address of Property Owner (if different than above): _____

Is property located within city/town limits? Yes ☒ No ☐

Property Tax District Number (two digits): 3225 Property Tax Account Number (six digits): 026640

Is this project: ☐ New Construction ☒ Rehabilitation

Project Starting Date: November 1, 2016 Expected Completion Date: April 30, 2017

* Estimated Cost of Project:	Land Purchase	\$	_____
	Building Purchase	\$	<u>750,000</u>
	Construction Cost	\$	<u>2,700,000</u>
	Rehabilitation Cost	\$	_____
	Machinery & Equipment	\$	_____ (not eligible for credits)

For State Income Tax Credits Only (New Jobs Created):

Note: The Enterprise Zone Program requires a minimum number of new jobs created. A list of new hires must be submitted to the WCDBD (for initial zone qualification) prior to claiming credits. "New jobs" for tax credit purposes are full time (35 hours or more per week), permanent positions (employed at least six months before claiming credit) which have not previously existed in Washington County, Maryland, before the business expanded or located in an Enterprise Zone.

Business Tax Year: From: _____ (month/day) To: _____ (month/day)

Number of Employees before locating or expanding in an Enterprise Zone:

Full Time (35 hours or more per week): _____ Part Time (less than 35 hours per week): _____

Number of New Jobs created in the Enterprise Zone:

Non-disadvantaged (not JTPA eligible): _____ Disadvantaged (JTPA eligible): _____

Projected Annual Payroll for these New Jobs:

Non-disadvantaged: \$ _____ Disadvantaged: \$ _____

Please submit application to:

Washington County Department of Business Development
100 West Washington Street, Suite 1401
Hagerstown, MD 21740-4710
240-313-2280