

Marc and Peggy Hansen  
201 Chestnut Ave.  
Washington Grove

July 27, 2021

Dear Planning Commission-

We have reviewed the draft Washington Grove Comprehensive Plan. It is an impressive and thoughtful document—made all-the-more so considering the large number of volunteer hours that must have gone into its creation.

However, we have two areas of significant concern about the Plan that we would like to share with you: the Commercial Corner; and historic preservation.

### ***Commercial Corner***

We share the Plan's intent of making the Corner more visually appealing. We believe much can be accomplished through encouraging public art to be displayed at the Corner—in our view the murals that have been painted at the Corner have added much to making the Corner a more attractive gateway into the Grove.

We are strongly opposed, however, to the recommendation that eating and drinking establishments be added to the list of uses that could be approved through the special exception process. Our reasons for this opposition are:

- 1) To be economically viable, an eating establishment located in the Corner will have to rely on a high-volume sale of take-out convenience foods, like sandwiches or tacos. This, in turn, will lead to a high volume of traffic—much like the 7-11 generated in the 1980's. To open the door to the possibility of a conflict with another 7-11 like business is unwise in our opinion.

An eating establishment that intended to rely on a low number of sit-down diners would simply not be economically viable—especially because the sale of alcohol is prohibited in the Town. Moreover, the rental units in the Corner are small—the spaces are around 1,400 sq. ft; so the number of diners would of necessity be quite small.

- 2) Reliance on limitations, like limiting the number of vehicle arrivals within an hour and limiting the hours of operation, is simply unrealistic. The Town’s history of enforcing its ordinances leads us to doubt the willingness of the Town’s volunteer government to undertake the arduous task of code enforcement.
- 3) The Plan suggests that Town residents can rely on the special exception process to protect the residential nature of the Town. The Plan notes that a special exception applicant must show by clear and convincing evidence that the proposed eating establishment will not significantly burden the Town with trash, odors, and traffic.

Leaving aside the difficulty of applying this standard, this requirement is significantly tempered by another provision of the Town’s Zoning Ordinance. The Board of Zoning Appeals must not deny a special exception based on the “inherent effects” associated with a particular use. An “inherent effect” is a physical and operational characteristic necessarily associated with a particular use. In the case of an eating establishment odors, food waste, and traffic are all likely to be considered an inherent effect. Moreover, this “inherent effects” standard is required by State law. *See* § 11.324 of the Washington Grove Zoning Ordinance.

We are sorry that the idea of a business improvement tax district is being removed from the present plan. Why? A business improvement tax district could impose a

special property tax on the Corner that would be earmarked for the Town to use to make improvements to the visual appearance of the Corner. These funds would likely incentivize the owner of the Corner to display public art at the Corner; plant trees; or make façade improvements to the Corner. As first noted, we believe that the murals that have appeared at the Corner are a significant visual improvement to the Corner, which as the Plan notes is a gateway into the Town.

### ***Historic Preservation***

We agree that the Town's physical setting (trees, parks, avenues) and its architecturally eclectic houses support rising property values. But these historic assets are not the only factor supporting property values. The Town's location near public transportation and good roads also enhances property values. The Plan should note this as well.

We are strongly opposed to the adoption of a historic preservation ordinance; this recommendation should be removed from the Plan for the following reasons:

- 1) As the Plan notes, the housing in the Grove is "highly eclectic". This is part of the charm of the Grove, and the Plan appears to laud the eclectic nature of the houses in the Grove. The Grove became this way because individuals have been free to project (through additions and other remodeling projects) their individual ascetic tastes on their own homes. This has turned out well. Therefore, especially given this history, there is no justification to recommend the imposition of the draconian remedy of authorizing the government to impose its judgments on a homeowner by exercising a veto on what improvements that an owner decides to make to her or his home.
- 2) As the Plan recognizes, a historic preservation ordinance imposes a financial burden on the owner of property deemed to be historic by the Town. It is simply wrong for the Town to impose an *involuntary* financial burden on an

individual property owner to realize a perceived public benefit that presumably benefits the Town as a whole.

- 3) As noted, the architecturally eclectic nature of the homes in the Grove is an important asset that makes the Town both unique and charming. This eclecticism is the result of hundreds of homeowners making innovative improvements to their homes over decades. Subjecting this creativity to the veto authority of a Historic Preservation Commission is inconsistent with nurturing the forces that have brought the Grove to where it is today. We wonder if 5<sup>th</sup> century BCE Athens had a historic preservation ordinance, whether the Athenian equivalent of a HPC would have permitted the Parthenon to have been built at all or if the HPC would have required that the original temple to Athena be meticulously re-built.

We support the Plan recommending that the Town consider creating a historic preservation easement program. A historic preservation easement program would offer to the owner of certain important historic resources (identified by the Council) an opportunity to *voluntarily* sell a historic preservation façade easement to the Town. The Town could fund the purchase of the easement with a grant program that returned to the owner the *ad valorem* portion of the Town real property tax until the purchase price of the easement will have been paid.

We hope that the Commission finds these comments helpful.

Sincerely,

Marc Hansen

Marc Hansen

*Peggy Hansen*

Peggy Hansen

CC: Mayor and Town Council