# BOROUGH OF GETTYSBURG TROXELL COUNCIL CHAMBERS 59 EAST HIGH STREET, GETTYSBURG, PA 17325 COUNCIL WORK SESSION MEETING MINUTES APRIL 25, 2022

President Wesley Heyser called the meeting to order at 7:00 PM with the following Councilors present: Vice President Matthew Moon, Mr. John Lawver, Mrs. Judith Butterfield, Mr. Christopher Berger, Ms. Patricia Lawson and Mr. Chad Carr. Staff present included: Mayor Rita Frealing, Borough Manager Charles Gable; Assistant Borough Secretary/Planning Assistant Karen Mesher; Borough Solicitor Harold Eastman, Barley Snyder; Parking Manager Rebecca Fissel; Director of Historic & Environmental Preservation Debra English; Planning Director Carly Marshall; Police Chief Robert Glenny; Public Works Director Robert Harbaugh and Chad Clabaugh, Borough Engineer, C. S. Davidson, Inc. Assistant Borough Manager/Secretary was absent.

Others present included: Jill Sellers, President of Main Street Gettysburg; Scott English, owner, 66-68 West High Street; Susan Cipperly, 314 North Stratton Street; Rosemary Meagher, 44 West High Street; Amanda Day, 142 West High Street; Jean Green, 4 Straban Court; Marion Ecker, 48 E. Stevens Street; Scott Wallace, Nerd Herd, 10 York Street; Keith George, Purple Piggy, 3 Chambersburg Street; Michelle Agapakis, 24 Chambersburg Street; and David Petters, 13 Lincoln Square. Representing the press was Jim Hale with the *Gettysburg Times*; and filming by *Community Media-ACCTV*.

#### Announcements

**President Wesley Heyser** announced an executive session of the Borough Council of the Borough of Gettysburg was conducted immediately following the adjournment of its April 11, 2022 monthly general business meeting consistent with section 708(a)(2) and section 708(a)(5) of the Sunshine Act.

President Wesley Heyser announced an executive session of the Borough Council will be conducted immediately following the adjournment of this evening's work session consistent with section 708(a)(2) and section 708(a)(5) of the Sunshine Act for the following purposes: (1) to provide information and to discuss strategy related to the upcoming negotiation of a new collective bargaining agreement with the International Brotherhood of the Teamsters Local No. 776, Gettysburg Borough Police Labor Organization; and (2) to review and discuss matters of Borough business which, if conducted in public, could lead to the disclosure of information or matters of confidentiality protected by law.

**Public Comment** – Restricted to Old Business and New Agenda Items (not tabled items).

Scott Wallace, Owner of the Nerd Herd gift shop at 10 York Street, discussed his experiences with the parklet program which began during the pandemic, and how utilizing

one in front of his business generated a lot of positive feedback from his patrons. He encouraged Council to be fair when considering the fate of the program.

Rosemary Meagher, 44 West High Street, read a prepared statement addressing her concerns with the proposed amendments for the English property addressing specifically its use as a special events venue that was discussed in a document presented at the March 24, 2022 Borough Planning Commission Meeting to include: the size of event tents, portable restrooms, formulation of an Annual Management Plan Review, and the availability of liquor relative to LCB Guidelines (see attached).

Keith George, Owner of The Purple Piggy at 3 Chambersburg Street, expressed his views on the proposed open container use in the Borough of Gettysburg. He started a petition supporting open container and creating a pilot program to review its usage, and that it will bolster agribusiness in the Borough. He said that through his research, all towns that incorporated using a pilot program adopted the use of open container, and that it did not impact youth advocacy.

Dave Petters, 13 Lincoln Square, expressed his concerns with the Borough's Parklet Program on Lincoln Square citing the loss of parking revenue and the lack of better directional signage to places to park when patronizing the Borough's downtown area. He commented on the proposed use of open container and said that he did not believe that it would be an issue.

Scott English, Owner of 66-68 W. High Street, read a prepared statement that highlighted the benefits of his event venue to the Third Ward by increasing parking revenue, commerce, and tourism. He said that it would showcase the unique historic structure held by his family for generations and share it with the public. He addressed with Council the concerns raised by the proposed text amendment to include: accessory structures and tents, accessory and temporary setbacks, tent limits, and portable restrooms (see attached).

Valerie Williams, 115 W. High Street, spoke in favor of the proposed zoning text amendment, stating that the venue at 66-68 W. High Street would positively benefit both residents and Borough.

Susan Cipperly, 314 N. Stratton Street, read a prepared statement regarding her concerns with the proposed text amendment for 66-68 W. High Street addressing several comments made at the March 24, 2022 Borough Planning Commission Meeting to include: Event Venue as a Permitted Use by Right, Tent Size, Side Yard usage and setbacks, idling buses, portable restrooms. She said that the proposed amendment needs to consider other properties in the other parts of town, and that allows certain uses with certain rights with the ability to secure a Zoning Special Exception if needed (see attached).

#### **Special Presentation**

# Gettysburg Inner Loop - Phase B

Borough Engineer Clabaugh from C.S. Davidson Inc. gave a brief presentation on the Gettysburg Innerloop (GIL) Phase B and answered Council questions. He discussed the relationship of the GIL to the Gettysburg Bicycle Trail System, and the Greenway Master Plan. He noted the development of a feasibility study in 2010 that would attempt to connect to a regional trail system as highlighted in the 2013 GIL Greenway Master Plan which has three phases of development: Phase A Steinwehr Avenue to Buford Avenue (completed), Phase B1 Buford Avenue to N. Washington Steet via Race Horse Alley (use Chesapeake Bay Grant to implement design/development), Phase B2 (GMA Interceptor Project) N. Franklin Street to N. Washington Street (design/development phase) to include eliminating parking spaces on N. Washington Street and add them to Race Horse Alley which would become one-way, noting that the Railroad Crossing would drive the timeline for the project which would include: permeable pavers in alley, rain gardens, tree boxes and directional signage. He said that traffic calming is the primary goal of the project and would require a traffic study possibly funneling Racer Hors Alley traffic one-way from Buford Avenue and N. Washington Street onto N. Franklin Street. Phase C (future project) between N. Washington Street and Carlisle Street via Railroad Street would is a \$2,472,000 project and would require securing a Railroad Crossing Permit. He said that future goals would include public safety awareness and securing donations (see attached).

#### **New Business**

#### Trash Hauler On-Line Complaint Form

Manager Gable discussed the creation of the Trash Hauler On-Line Complaint Form which is now available on the Borough's website for use by residents at <a href="https://www.gettysburgpa.gov/readmore/customerinfo/complaintarea">www.gettysburgpa.gov/readmore/customerinfo/complaintarea</a> to document their complaints. He said that the transition for Borough residents from Waste Connections to Waste Management was problematic for both staff and residents, necessitating a formal complaint form to log and track their complaints. He said that the form will be available at this address until the end of the month, and then it could be found under the "Recycling" tab.

### PBS 2020-07 Converting Parking Spaces into Outdoor Public Parklets

Planning Director Marshall said that the intent of the parklet program was to expand the business footprint and activate public spaces especially during the pandemic, and that a draft ordinance was created considering the number of parklets per block, the slope of proposed streets, and the needs of the business district. She said that three parking spaces are needed for the installation of a parklet, businesses must secure permission from neighboring businesses, and that they must be removed during the winter months. The goal was to promote people gathering and using outdoor spaces safely. She said that the staff recommended it would be to preserve the use of the Adams County Arts Council Parklet

which they could rent from the Borough and lease it out. She told Council that parklet usage would be status quo for 2022, and to create an ordinance for 2023. Council noted the success of the Nerd Herd business parklet but acknowledged that the use took away business parking for other nearby businesses. Director Marshall said that the Parklet Pilot Program was created by Borough Resolution, and that the Council consensus would be to freeze the parklet usage moving forward.

# PBS 2022-02 Public Consumption of Alcohol Zone(s)

Manager Gable discussed the Public Consumption of Alcohol Zones with Council acknowledging that Pennsylvania is one of six states that has regulatory control of open container regulations. He said that it could be added to special event applications and reviewed by all department heads. He said that administering the program through a one-year pilot program would give staff the time to review and report their findings to Council for their consideration. He said that the Borough of Carlisle regulated open consumption of alcohol to specific zoning districts without any issues. Chief Glenny said that the program would create a public safety issue resulting in increased alcohol law violations and littering. After careful discussion, Council conceded to create a pilot program for Lincoln Square and one block from the Square in all directions, times that would mirror the current Borough's Noise Ordinance, logistics regulating cup style, detailed refuge management plan, and the area would be posted by signs. The pilot program would be started via resolution by Council in the same manner as the previous example for alcohol consumption on parklets. Council would review noise, impact on businesses, and public safety awareness and education for one year receiving feedback from both staff and businesses.

# S. English Zoning Text Amendment Request

**President Heyser** continued to discuss the Proposed Zoning Text Amendment Request by Scott English for his property at 66-68 W. High Street. Council discussed the following topics in their review: definition of event venue, lot requirements, accessory structures and tents, side setbacks, tent limits, portable restrooms, dumpster containers, event operational hours, presence of event employees, maximum attendance at events, event frequency, noise issues, event lighting, parking requirements. Council agreed to continue their discussion at the May 23, 2022 Council Work Session Meeting covering the need for the use of an Annual Management Plan and its review process.

Public Comment (open to items not on the agenda)

**Jill Sellers, Director of Main Street Gettysburg**, addressed Council and shared the following:

 West High Street Project: the process has been painfully inefficient, noting that this project is good for the local economy, and that Council should be more business friendly and not micromanaging.

- Parklets: the parklet program has helped to create community space, made the downtown more walkable, and should be a model for the future.
- Open Container: This program has potential to greatly promote the local economy; but it must, however, be inclusive in order to be fair and equitable, and there are no existing laws to manage violations.
- Vision: I would suggest that Council approach opportunities with vision in order to prepare for the future.
- Sustainability of Businesses: Local businesses can not be micromanaged in order to be viable and sustain a long-term vision, noting that walkability and public gathering spaces include parklets, and existing laws are already in place to manage open container so limiting geographic locations is not necessary.

President Heyser adjourned the meeting to an executive session at 10:10 PM.

Respectfully submitted,

Karen Mesher Assistant Borough Secretary

Rosennay Meagher 4-25-22

I intend to respond to the latest record that I have regarding the English-Special Events Venue document dated March 24, 2022, from the Planning Commission

#### When did the tent size get larger?

My understanding at the Borough meeting of 3/28/2020 was 35x40 or 30x45 or approximately 1400 sq ft. The tent size is this document is 40x60 ft or 2400 sq ft. 40x60 is a very large tent and the removal of mature trees seems to be in conflict with Borough rules.

Current standards require 20 foot setbacks and are required when adjacent to a residential use. The attempt is to whittle this down to 10 feet. If the space is not adequate under the requirements, maybe the tent size need to be reduced to the original request of 1400 sq ft.

Discussed, but undecided by the Planning Commission, was when the tent(s) would be required to be removed. I would assume that the contract developed with the tent company would require that the tents be removed at the end of the event, the next day, or at the latest, the next business day. There was no clear plan on this.

#### Portable Restrooms

The idea of a portable restroom on the premises continually from April to October is difficult to imagine. Summers here are very hot...last year I recall having very few days of "poor man's weather", a phrase created for the period of time when you don't need HEAT or AC...lt occurs in the spring and the fall. We have experienced very hot, humid weather for several months in the last few years.

This is a health issue. Let's refresh our memories as to why sewers and septic systems became so important as a health issue. In 1832, 1849, and 1866, there were serious outbreaks of cholera in Philadelphia, which is a gastronomic intestinal infection resulting from improper dissemination of waste. There is a health reason why we don't support the use of outhouses in cities and towns anymore.

With that being said, I find it selfish to think that a residential neighborhood should need to live with the sight and/or the odor. It means nothing to me that porta potties have been placed around the Borough as temporary for construction, road work or some commercial interests. For the Borough to let this slide...and I am hearing that there are no specific rules in place... Keep in mind, this is a health issue as in an infectious disease issue when deciding on this option. There could be a permanent outhouse coming near you in the future.

If it is decided that outhouses, are acceptable in the Borough, I would request that on this project, that it be placed in the garage, thus cutting the view and lessening the odor to neighboring residents. Another issue that has not been mentioned is vandalism...tipping one over. For some, it could be considered a lark or a dare. Hot weather and breezy days cause a lot of issues.

#### Annual Management Plan Review

I agree to the annual review of the Annual Management Plan. It was clarified in the Planning Commission meeting on 4/18/2022, if there should there be considerable overstepping of the agreed plan, the Special Events Venue could be suspended prior to the year end review.



Updated 02/25/2020

# CONDUCTING SPECIAL EVENTS WHERE ALCOHOLIC BEVERAGES WILL BE MADE AVAILABLE TO ATTENDEES

Please be advised that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement (BLCE), and not the Pennsylvania Liquor Control Board (PLCB), which enforces the liquor laws in Pennsylvania. Further, information provided below is not binding on the BLCE and is offered for information and guidance only

The PLCB is frequently contacted by organizations or groups interested in hosting festivals or similar special events at which alcoholic beverages will be made available to attendees. The following is offered as general guidance for how such festivals or events may be conducted lawfully under the Liquor Code and the PLCB's Regulations.

### I. Prohibition Against the Sale of Alcohol without a License or Permit

In Pennsylvania, the sale of alcohol by anyone is prohibited, unless the seller holds a valid license or permit issued by the PLCB. 47 P.S. § 4-491(1). The Liquor Code broadly defines a "sale" as any transfer of liquor, alcohol or malt or brewed beverages for a consideration. 47 P.S. § 1-102.

There is nothing in the Liquor Code or the PLCB's Regulations that prohibits a non-licensed person or entity from giving away free alcohol, and there are no limitations as to the type or amount of alcohol that a non-licensed person or entity may give away. However, the alcohol provided must truly be free. In other words, the provision of alcohol cannot be predicated upon the purchase of a meal, an admission ticket, donation, payment of any other fee, etc.

Anyone who is twenty-one years of age or older and who is not visibly intoxicated must be able to request and receive the complimentary alcoholic beverages. Otherwise, the persons or entities providing the alcohol could be charged with selling alcohol without a license in violation of the Liquor Code. Thus, if the purchase of a meal, and admission ticket, donation, or payment of any other fee is necessary to obtain access to alcoholic beverages at your event, this would be considered a sale of alcohol and must be done pursuant to an applicable license or permit.

Scot English 4-25-22

#### **Opening Statement**

This events venue would bring life back to the 3<sup>rd</sup> ward, bring income into the Borough through parking revenue, commerce, and tourism. This venue will benefit the 3<sup>rd</sup> ward and Borough as a whole, show casing this unique historic structure and share it with the public. With over 66 petition signatures supporting this events venue we have community wide backing.

#### **Proposed Districts**

Permitted use Vs. Special Exception – We would like to revisit the request for a permitted use; if we meet the zoning requirements and follow all in place ordinances this would allow us to move forward with this approval. The zoning Hearing for a SE would delay our ability to operate this summer as that will be scheduled after Council motion which is several months down the road looking at close to a year long review process. With the lot restrictions and other parameters set in place it would be difficult for this use to be utilized in areas not permitted by right.

#### **ACCESSORY STRUCTURES &TENTS**

Placing the tent at the house façade or behind is an unreasonable request, if that is the case ALL trees on the property will need to be removed which provides screening to facilitate location of the tent behind the house line. The standard 'build to line' in this zoning district should be utilized which is 10 feet in the R2/ESO. These tents are temporary and not left up for extended periods of time. The purpose is for these events is to SHOWCASE this historic structure and allow the public to enjoy its character.

#### **Accessory and Temporary Side Setbacks**

A reasonable distance as approved by the Planning Commission and Council is 15' or 10' with screening. We are erecting a privacy fence with additional plantings to help elevate noise and privacy for the adjacent neighbor at our expense.

#### **Tent Limits**

Tent limits should facilitate the number of maximum guests for allowed events as the ordinance limits. Alternative language notes a maximum of a 20x20 which can barely fit two parked cars and is an unreasonable size to facilitate 100 guests. Planning Commission recommended no tent size restriction – should be based on number of allowed guests.

#### **Portable Restrooms**

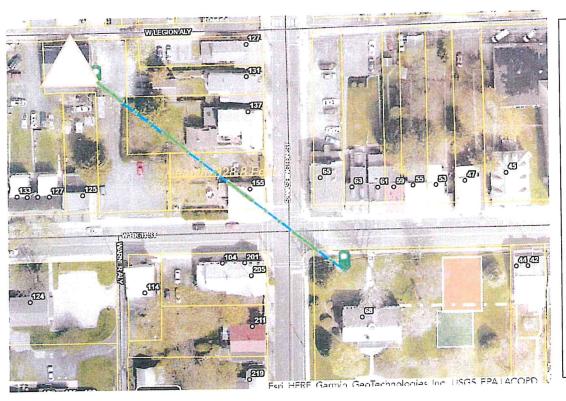
The port a pot for handicap accessible guests will need to be in an accessible location appropriate to the tent location. As noted by the neighbor, she voiced concerns for handicap accessible restrooms. The porta pot will be utilized for the seasonal summer tourist season and screened from both Washington and High Street. This temporary location for the summer will allow better screening, and less truck noise if dropped off for summer seasonal use. If dropped off each weekend it will generate more noise and truck traffic which was another concern of the neighbor. This will limit the noise provide temporary handicap restrooms and allow us the opportunity to better screen it. Outside the tourist months (April through Oct) they will be removed and placed on a needed basis and removed after those events.

# PUBLIC COMMENT – Gettysburg Borough Council Workshop – 4/25/2022

# English Text Amendment - Susan H. Cipperly 314 N. Stratton St., Gettysburg

At the April 18, 2022 Planning Commission meeting, they considered a recommendation request for a property needing a variance in order to convert a portion of a 3-bay garage/warehouse into an apartment. They gave a positive recommendation for the project, after mentioning multiple times that the apartment would fit into the "residential neighborhood" and provide more housing.

That property is located in the Elm Street Overlay, about 329 feet from 68 West High Street.



123 W High, reviewed for Zoning Hearing Bd.

<u>+</u> 329 feet from 68 W. High St. in "residential neighborhood"

Orange - 40'x 60' tent

Dashed line – front yard boundary (can't have fence taller than 4' along property line past this point.

Green – 35' x 40' tent fits in side/rear yard

At the Planning Commission meeting Scott and Debra English, owners of 68 West High St, made several statements that differed from those made at the last Council workshop.

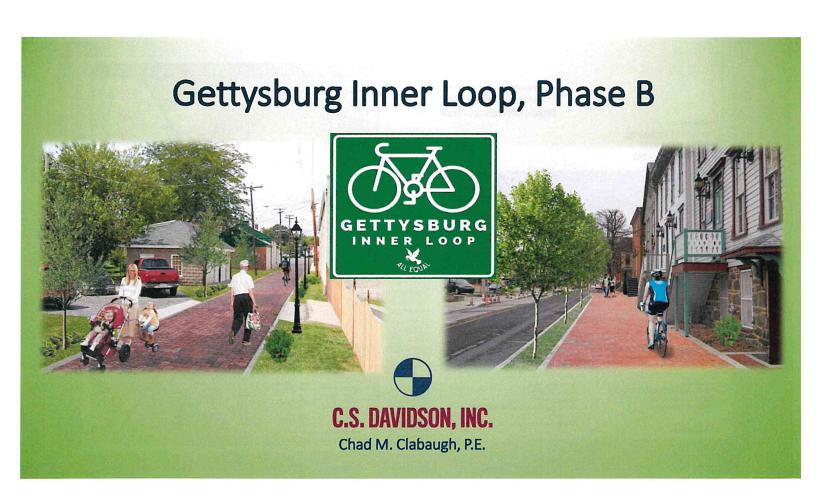
- Wanted Event Venue to be a "by right" use, so they would not need approval from the Zoning Hearing Board
- $\circ$  Claimed that they would need a 40' x 60' tent, which is larger than the 35' x 40' size discussed previously. Could be up for 3 days in the event of a wedding and related activities.
- $\circ$  Did not like the requirement prepared by Carly Marshall that said tents cannot be in the front yard area. Scott said the 40 x 60 tent would not fit without cutting down 2 trees, and Debra declared that the 10-foot build-to line would apply to their tents.
- Debra stated that busses were not necessarily going to be used, and they hoped that most people would walk to the events, so parking would not be an issue. How does this work for a wedding?

At the last workshop, Council's consideration ended on the subject of portable toilets. The applicant supplied several photos of portables around town for construction projects, but also for longer term use by businesses. This seems to be something the borough needs to address, rather than becoming recognized for its lack of indoor plumbing for visitors and others. I suggest that it not be mentioned in the Event Venue ordinance, rather than make it appear that they are allowed by law.

The Event Venue ordinance needs to consider other properties in other parts of town, not just 68 High Street. Lot size does not appear relevant if setbacks for tents and other criteria can be met. Some lots are large, but almost completely covered by a building, while others have a smaller building but more lawn.

In general, this proposal has developed into a bargaining exercise between the applicant and the borough. As shown above, nothing that is said has much permanence. It needs to be treated as an ordinance that allows a certain use with certain requirements. If a property can meet them, it will be able to secure a Special Exception from the Zoning Hearing Board.

At the Planning Commission meeting and in talking with some neighbors, Mr. English has said that if he doesn't get this approved, he will have to put in a double-wide. Obviously, this is not possible under the zoning requirements, but not everyone realizes that. The owners are already approved for B&B and Vacation Rental, so the property can produce significant income. An event venue is not the only option, and there are other properties in town that can accommodate one.



Feasibility Study for the Gettysburg Inner Loop Bicycle Network and Trail

Prepared for: Borough of Gettysburg 59 East High Street Gettysburg, PA 17325

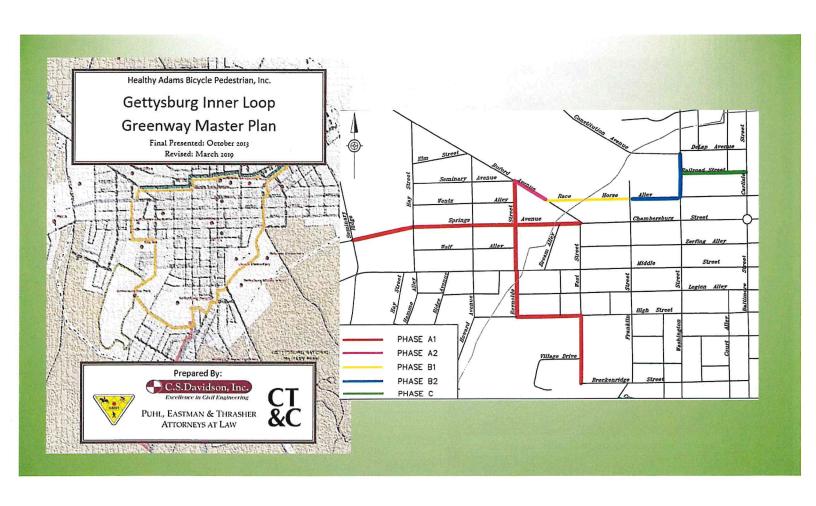


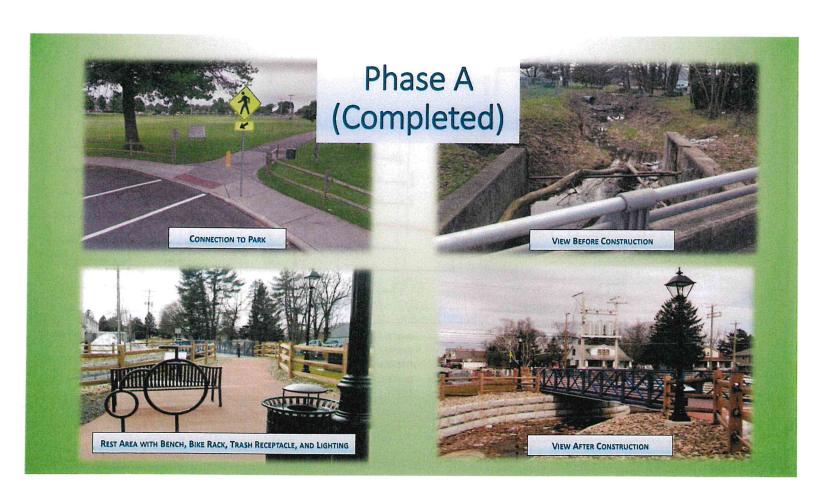
Prepared by: Healthy Adams Bicycle/Pedestrian Inc. 85 Bittern Drive Gettysburg, PA 17925

September 2010

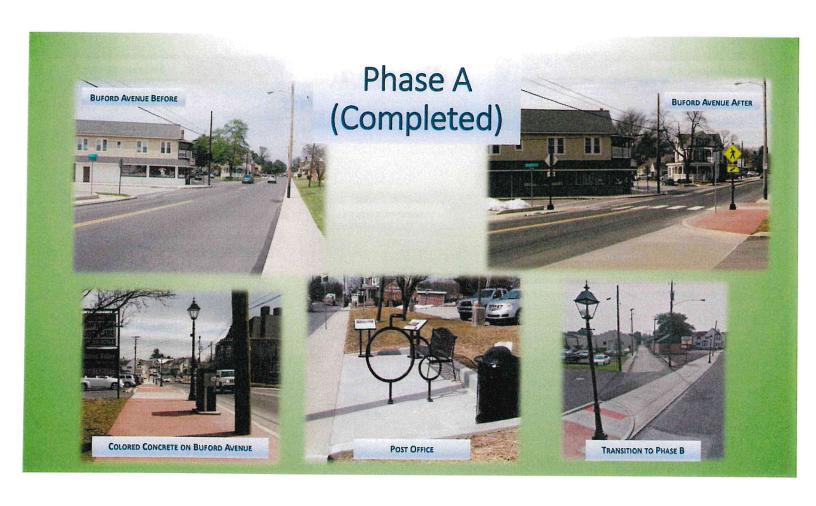
In partnership with: National Park Service Northeast Region Rivers, Trails & Conservation Assistance Program Philadelphia, PA 19166





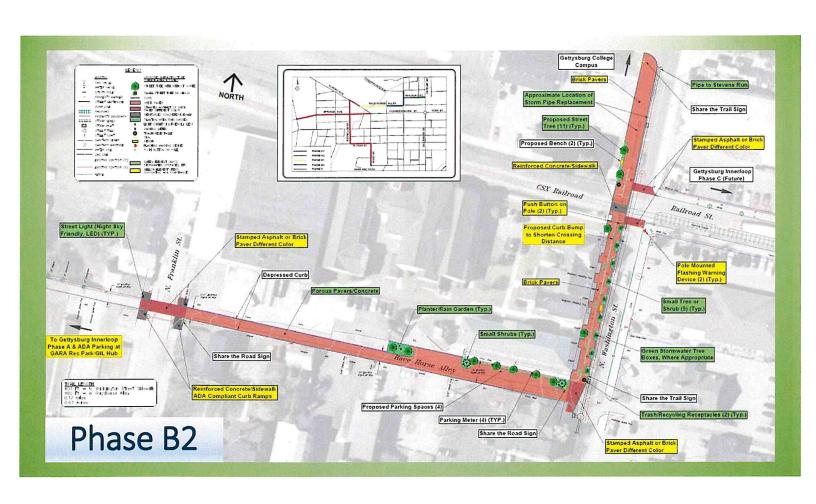


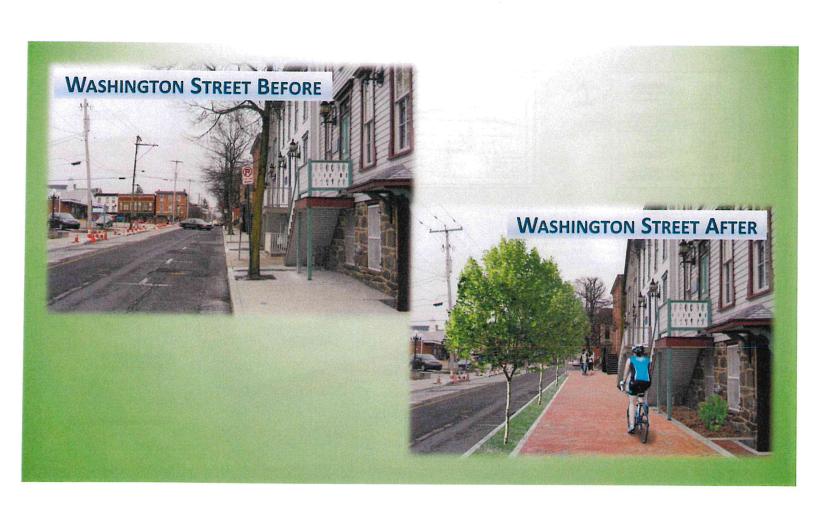


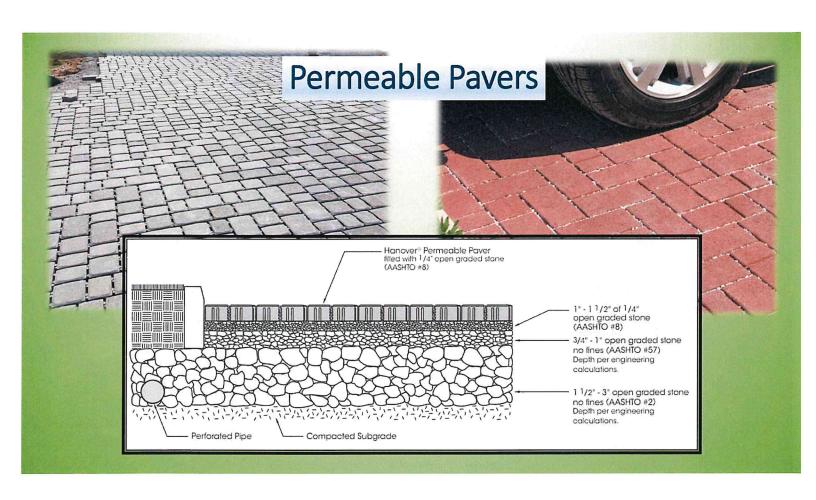




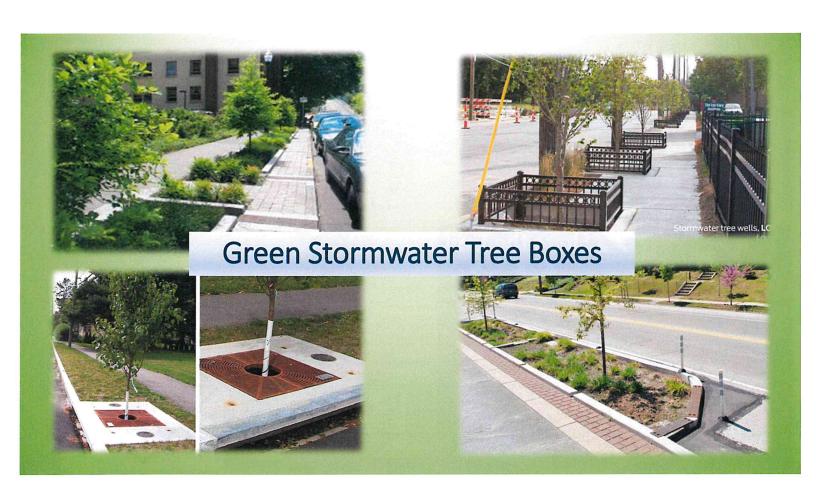














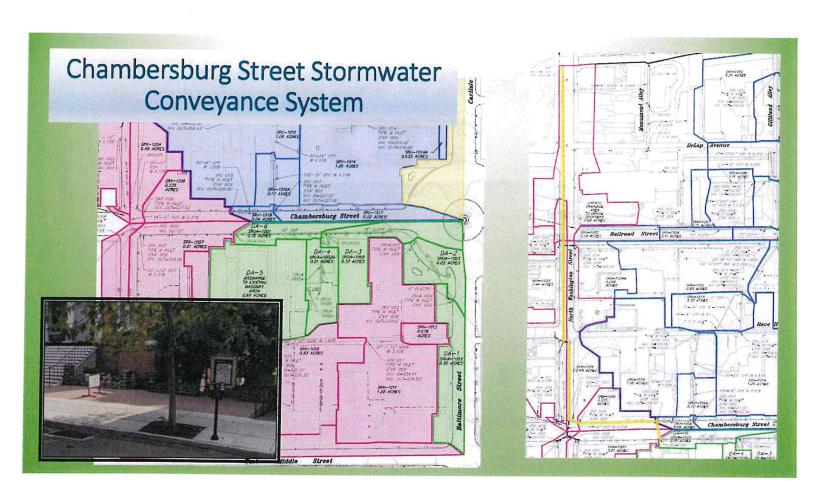




# One Way Traffic or Two Way Traffic?











# **Budgetary Cost Estimate**

Gettysburg Inner Loop (GIL)

Phase B1 + B2

February 4, 2022

Design Phase	Costs					
Project Management, Survey, Design, Permitting, Estimating, Technical Specifications	CSX Permitting	Bidding specification and process	Construction Inspection and Management	CSX Inspector	Construction	Phase B Project Total
\$288,000	\$12,000	\$70,000	\$222,000	\$30,000	\$1,850,000	
Total Design Costs	\$300,000		Total Construction Phase Costs		\$2,172,000	\$2,472,000

Design and Bidding Costs are estimated using previous GIL phase B1 and B2 estimates and takes into consideration completed design in phase B1 using Chesapeake Bay Funds

Construction Inspection and Management is budgeted at nearly 12% of construction cost

\* A full time inspector, employeed by CSX Railroad, will need to be on site while working within the railroad right of way in addition to the General Construction Inspector during phase B2.

note: This estimate assumes funding involvement from PennDOT including: Field Scoping, Categegorical Exclusion Evaluations, Design using PennDOT DM2, PennDOT Design Reviews, PennDOT qualified construction inspections, and requirements associated with construction field offices.

Funding Strategy for GIL Phase B 02-04-2022

### **Gettysburg Inner Loop Funding Strategy**

Total Project Cost	
Design for B1 (expended)	\$47,262.00
Design for B1	\$113,000.00
Design for B2	\$187,000.00
B1 Construction	\$820,000.00
B2 Construction	\$1,352,000.00
TOTAL	\$2,519,262.00

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Funding Source	Secured and Anticipated Funds	Design B1 SPENT	Design B1 FUTURE Expenses	Design B2 FUTURE Expenses	B1 Construction	B2 Construction
Gettysburg Borough	\$80,000.00			1 -	\$80,000.00	
CDBG (2021 and 2022)	\$260,000.00				\$260,000.00	
Chesapeake Bay Trust funded GIL B1 environmental engineering	\$47,262.00	\$47,262.00				
GBSWA	\$70,000.00		\$70,000.00			
HABPI	\$33,000.00		\$13,000.00	\$20,000.00		
Adams Co. Community Foundation	\$17,500.00		21 500	\$17,500.00		
Adams County Parks Recreation and Green Space	\$25,000.00		\$25,000.00			
Wellspan Health	\$25,000.00		\$5,000.00	\$20,000.00		
Destination Gettysburg	\$1,000.00			\$1,000.00	1	
Union Hotel	\$1,000.00			\$1,000.00		
Adams County Community Foundation, applied for herein ** Anticipated	\$30,000.00			1	\$30,000.00	
DCED/CFA greenways trails and recreation program** Anticipated	\$203,000.00				\$203,000.00	
DCNR C2P2	\$252,500.00			\$127,500.00	\$125,000.00	
TA Set-Aside (Federal) ** Anticipated	\$1,474,000.00				\$122,000.00	\$1,352,000.00
Totals		\$47,262.00	\$113,000.00	\$187,000.00	\$820,000.00	\$1,352,000.00

This estimate assumes B1 and B2 are designed at the same time and constructed at the same time

\$2,519,262.00

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TOTAL	\$2,519,262,00

Funding Source	Secured and Anticipated Funds	Design 81 SPENT	Design 81 FUTURE Expenses	Design B2 FUTURE Expenses	81 Construction	B2 Construction
Gettysburg Borough	\$80,000.00	SI DE			\$80,000.00	No.
CDBG (2021 and 2022)	\$260,000.00			A 1500 CH	\$260,000.00	
Chesapeake Bay Trust funded GIL B1 environmental engineering	\$47,262.00	\$47,262.00				
GBSWA	\$70,000.00		\$70,000.00			
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Adams County Parks Recreation and Green Space	\$25,000.00	e e	\$25,000.00		-	
Wellspan Health	\$25,000.00	6.	\$5,000.00	\$20,000.00	2	
Destination Gettysburg	\$1,000.00	2		\$1,000.00	T.	
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