

Planning Commission Hearing
Minutes
April 12, 2010

PC MEMBERS

Meta Nash
Alderman Russell
Billy Shreve
Josh Bokee
Gary Brooks
Steve Stoyke

STAFF PRESENT

Gabrielle Dunn, Division Manager of Development Review
Jeff Love, City Planner
Pam Reppert, City Planner
Steve Barney, City Planner
Zack Kershner, Deputy Director for Engineering
Scott Waxter, Assistant City Attorney
Carreanne Eyler, Administrative Assistant

I. ANNOUNCEMENTS:

II. APPROVAL OF MINUTES:

Approval of the March 8, 2010 Planning Commission Minutes as amended:

MOTION: Commissioner Bokee.

SECOND: Commissioner Brooks.

VOTE: 5-0.

Approval of the March 15, 2010 Workshop Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Shreve.

VOTE: 5-0. (Commissioner Bokee and Alderman Russell abstained)

Approval of the April 9, 2010 Pre Planning Commission Minutes as amended:

MOTION: Commissioner Shreve.

SECOND: Commissioner Stoyke.

VOTE: 4-0. (Commissioner Brooks and Commissioner Bokee abstained)

III. PUBLIC HEARING-SWEARING IN:

"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth." If so, answer "I do".

IV. PUBLIC HEARING-CONSENT ITEMS:

(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present - Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda. If you would like any of the items below considered separately, please say so when the Planning Commission Chairman announces the Consent Agenda.)

A. PC10-51FSU, Final Subdivision Plat, Schifferstadt Boulevard Roadway Dedication

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee.

SECOND: Commissioner Brooks.

VOTE: 5-0.

V. MISCELLANEOUS:

B. PC09-324FSU, Final Subdivision Plat, Country Club Heights Lots 4-A and 4-B

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Barney entered the entire staff report into the record. He stated that the Applicant is seeking a 6-month extension of the December 14, 2009 Planning Commission approval to re-subdivide the existing single family residential lot located at 1428 Teal Lane (Country Club Heights, Lot 4, Block B).

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval to extend the previous less than 60 day conditions to conditions that must be met in greater than 60 days and in less than one year from December 14, 2009.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

There was no presentation given.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of petitioner/applicant from the Planning Commission.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revisions to the recommendation from planning staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Brooks made a motion to approve an extension to December 14, 2010 for PC09-324FSU.

SECOND: Commissioner Bokee.

VOTE: 5-0.

VI. OLD BUSINESS:

C. PC09-475FSI, Final Site Plan, Morningstar Foods, Inc.

INTRODUCTION OF CASE BY THE PLANNING STAFF:

The Applicant is requesting final site plan approval for the demolition of 20,552 s.f. of existing building and the construction of 18,978 s.f. of new building in its place. The project is proposed to be completed in two phases.

As part of the site plan approval, the Applicant is requesting the following modifications which pertain to the to the final site plan standards:

1. A modification to Section 601(b) for turn around area required so that traffic entering or leaving a property at a public way is traveling in a forward motion; and
2. A modification to Section 605(e), Table 605-3, for the required Level III or Level IV lot line landscaping between M1 and PRK; and
3. A modification to Section 605(f) for street trees along East Patrick Street.

The Applicant is also requesting approval of a Certificate of Urban Design Compliance as well as the following related modifications:

1. A modification to Section 420(f)(1)(F), Table 420-1 for the maximum front wall height permitted; and
2. A modification to Section 420(f)(3)(A) for the maximum permitted front yard setback; and
3. A modification to Section 420(f)(4)(E) to the requirement that buildings have dominant elevations facing both the Carroll Creek Linear Park and the widest right of way upon which the building fronts; and
4. A modification to Section 420(f)(5)(A)(2) for the maximum length of consecutive bays in excess of 60'; and
5. A modification to Section 420(f)(5)(A)(3) for the maximum length of a singular building facade which exceeds 120'; and
6. A modification to Section 420(f)(5)(A)(4) for a contiguous structure greater than 180' in length along a right of way; and
7. A modification to Section 420(f)(5)(A)(5) for the horizontal offset of the required vertical transition between consecutive bays; and
8. A modification to Section 420(f)(5)(D) for the required architectural design elements on a corner building; and
9. A modification to Section 420(h)(5), which prohibits supply or exhaust vents elevations facing the Carroll Creek, a dominant elevation, or within twenty (20) feet of any pedestrian entrance; and
10. A modification to 420(i), Table 420-4 for the required sidewalks along Sagner Avenue; and
11. A modification to Section 420(i), Table 420-4 for the required street trees; and
12. A modification to Section 420(i), Table 420-4 for the required lighting fixture type.

The Applicant is also requesting approval of a Certificate of Architectural Compliance as well as the following related modifications:

1. A modification to Section 420(j)(1)(C) requiring that elevations facing the public right-of-way contain commercial and/or residential use; and
2. A modification to Section 420(j) Table 420-5 for wall materials and design of the roof, middle, and base level; and
3. A modification to Section 420(j) Table 420-5 for windows and glazing to be eliminated; and
4. A modification to Section 420(j) Table 420-5 for a required entrance facing the Linear Park and all building to have a secondary entrance at 60 feet intervals; and
5. A modification to Section 420(j) Table 420-5 for the provision horizontal expression lines between the levels of the building; and
6. A modification to Section 420(j) Table 420-5 for lighting required as "acorn" type lights on 12-14 foot poles.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended approval of the following modifications related to the Certificate of Urban Design Compliance:

1. A modification to Section 420(f)(1)(F), Table 420-1 for the maximum front wall height permitted based on the change in the grade elevation between the site and the adjacent linear park and the impact that this change has on the perceived building height; and
2. A modification to Section 420(f)(3)(A) for the maximum permitted front yard setbacks based on the industrial use of the property and consistency with the existing building footprint; and
3. A modification to Section 420(f)(4)(E) to the requirement that buildings have dominant elevations facing both the Carroll Creek Linear Park and the widest right of way upon which the building fronts based on the industrial use of the property; and
4. A modification to Section 420(f)(5)(A)(2) for the maximum length of consecutive bays in excess of 60' based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature; and
5. A modification to Section 420(f)(5)(A)(3) for the maximum length of a singular building facade which exceeds 120' based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature; and
6. A modification to Section 420(f)(5)(A)(4) for a contiguous structure greater than 180' in length along a right of way based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature and

7. A modification to Section 420(f)(5)(A)(5) for the horizontal offset of the required vertical transition between consecutive bays based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature; and
8. A modification to Section 420(f)(5)(D) for the required architectural design elements on a corner building based on the industrial nature of the property; and
9. A modification to Section 420(h)(5), which prohibits supply or exhaust vents elevations facing the Carroll Creek, a dominant elevation, or within twenty (20) feet of any pedestrian entrance based on the proposal to integrate any necessary vents into the architectural design of the building; and
10. A modification to 420(i), Table 420-4 for the required sidewalks along Sagner Avenue based on the Engineering Departments recommendation; and
11. A modification to Section 420(i), Table 420-4 for the required street trees; and
12. A modification to Section 420(i), Table 420-4 for the required lighting fixture type based on the need to install secure lighting consistent with the City Street Light detail.

Based on the approval of the above noted modifications, Staff recommended approval of a Certificate of Urban Design Compliance.

Staff recommended approval of the following modifications related to the Certificate of Architectural Compliance modification:

1. A modification to Section 420(j)(1)(C) requiring that elevations facing the public right-of-way contain commercial and/or residential use based on the permitted industrial use of the property and the restrictions against commercial and residential uses in the M1 district.
2. A modification to Section 420(j) Table 420-5 for wall materials and design of the roof, middle, and base level based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature;
3. A modification to Section 420(j) Table 420-5 for windows and glazing to be eliminated based on the industrial use of the property and the provision of architectural insets that mimic window openings as compensating features.
4. A modification to Section 420(j) Table 420-5 for a required entrance facing the Linear Park and all building to have a secondary entrance at 60 foot intervals based on the industrial use of the property.
5. A modification to Section 420(j) Table 420-5 for the provision horizontal expression lines between the levels of the building based on the consistency with the existing construction and the creation of a unified architectural design as a compensating feature;; and
6. A modification to Section 420(j) Table 420-5 for lighting required as "acorn" type lights on 12-14 foot poles.

Based on the approval of the above noted modifications, Staff recommended approval of a Certificate of Architectural Compliance.

Staff recommended approval of the following site plan modifications:

1. Section 605(e), Table 605-3 for lot line landscaping between M1 and PRK requires Level III or IV buffer based on the existing site constraints and new improvements to be provided as part of the Linear Park as well as the proposal for plantings along the street frontage and/or interior open space area between Sagner Court and Virginia Avenue as a compensating feature;
2. Section 605(f) for Street Trees along East Patrick Street; and
3. Section 601(b) for Turn Around Required so that traffic entering or leaving a property at a public way is traveling in a forward motion based on the low volume of traffic along Sagner Avenue and the proposed improvements to the sites entrances on Sagner Avenue as a compensating feature.

Staff recommends approval of Final Site Plan PC09-475FSI for Morningstar Foods Inc. with the following conditions to be met:

In less than 60 days:

1. Edit Plan note to read: On November 4, 1999, the Mayor and Board of Alderman approved the following with the condition that the terms and conditions be documented in an agreement between the City and Morningstar Foods:
 - a. To grant a deferral of 100 foot dedicated right of way for E Patrick St. subject to final review by the Planning Commission.
The agreement shall be recorded prior to improvement plans approval."
2. Edit Note #18 to read: An easement agreement between Morningstar Foods and the City shall be executed and recorded for the ROW trees and fence encroachment in the ROW prior to improvement plans approval.
3. On Sheet 3, delete modification #1 for landscaping between M1 and DR as it is a nonconforming feature.
4. Edit Note #23, #1 should read: Section 605(d)(4A) and Section 607(f)(C) for width of buffer area between M1 and DR.
5. On Sheet 2, provide two (2) plant schedules, existing and proposed.
6. On Sheet 2, add landscape note to document compliance with Section 605(c)(5).
7. Add to Note #23 as nonconforming features, ISR 93% according to Section 405(a) Table 405-1 and separation distances for all entrances according to Section 601 Table 601-2.
8. Remove 4' sidewalk from street improvements for Sagner Avenue as recommended by the Engineering Department.
9. In Note #21, delete screening between M1 and DR and between M1 and NC as

requested modifications.

10. Replace the Ivory Silk Japanese Lilacs with Red Maples or comparable large canopy tree, plus add a note that the City Arborist shall finalize the street tree selection along the northwest side of Sagner Avenue at improvement plan stage.

11. Edit drawing label for 40' R/W (L402 F365) to add to description as drainage easement.

In greater than 60 days and less than one year:

1. The Landscaping Plan must be revised to depict plantings in the open space along Virginia Avenue and/or along the street frontage of Sagner Avenue equivalent to the Level III buffer requirement for the property line between the M1 and PRK zoning districts along the Creek. The Parks and Recreation Department shall approve the final locations and specie selection.

2. Obtain FAA approval of Form 7460-1 and provide date in Note #20.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Brooks asked if there was any consideration given to the expense for substituted trees as requested in condition #10 "to be met in less than 60 days."

Ms. Reppert responded that staff does not consider that aspect, but that staff considers how the greatest canopy can be achieved and tree selection that is right for the location. She added that this area is open enough for large canopy trees instead of small ornamental trees.

Commissioner Shreve stated that condition #10 is open-ended where the City arborist could say "I want you to do this."

Mrs. Dunn stated they have a listing of approved street trees that are on a City maintained list so any of those would be what the City Arborist would select from.

Alderman Russell stated at the field trip the questioned had been raised as to what type of tree was denoted by the abbreviation "CMYJ" on the Carroll Creek Park plans. She did research and found out that it is a Cryptomeria Japonica, or a Japanese Cedar.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

Mr. Michael Proffitt, Proffitt & Associates, stated that there is a change to the manufacturing paradigm for Morningstar Foods which is important to note for this project. They have gone from a series of cultured products to where they are

producing individual quart size pasteurized creamer. This will allow them to update the plan to be able to get new boiler rooms, update the electrical room as well as several other things. Mr. Proffitt finished by stating that if the Planning Commission had any questions at that time, they would be happy to answer them.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Shreve asked the applicant if they had any issues with the trees being finalized by the City Arborist.

Mr. Proffitt stated they did not have any issues with it.

Alderman Russell wanted to thank the applicant for working with the City to plant the Sagner area because it is in need of some trees.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revision recommendations from planning staff.

PLANNING COMMISSION ACTION OF MODIFICATIONS FOR CERTIFICATE OF URBAN DESIGN COMPLIANCE:

MOTION: Commissioner Bokee made a motion to recommend approval of the 12 modifications related to the Certificate of Urban Design Compliance as outlined in the staff report here on April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION CERTIFICATE OF URBAN DESIGN COMPLIANCE:

MOTION: Commissioner Bokee made a motion to recommend approval of the Certificate of Urban Design Compliance based on the 12 modifications that were approved above.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION OF MODIFICATIONS FOR CERTIFICATE OF ARCHITECTURAL COMPLIANCE:

MOTION: Commissioner Bokee moved to approve the 6 modifications related to the Certificate of Architectural Design Compliance as listed in the staff report of April 12, 2010

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION CERTIFICATE OF ARCHITECTURAL COMPLIANCE:

MOTION: Commissioner Bokee made a motion to recommend approval of the Certificate of Architectural Design Compliance based on the 6 modifications that were just approved.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION MODIFICATIONS FOR PC09-475FSI:

MOTION: Commissioner Bokee moved to approve the 3 site plan modifications as in the staff report of April 12, 2010 but with the correction made of Sagner Court to Sagner Avenue in modification #1.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION PC09-475FSI:

MOTION: Commissioner Bokee moved to approve final site plan PC09-475FSI for Morningstar Foods with the 11 conditions to be met in less than 60 days and as well as the 2 conditions to be met in greater than 60 days but less than 1 year as entered into the record by staff and as outlined in the staff report of April 12, 2010.

SECOND: Commissioner Brooks.
VOTE: 5-0.

D. PC10-45FSI, Final Site Plan, City Parking Lot (Deck 6)

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting final site plan approval to construct an 85 spaces, surface parking lot located interior to the block bordered by Commerce Street, S Carroll Street, S East Street, and E South Street.

As part of the site plan approval, the Applicant is requesting the following modifications which pertain to the to the final site plan standards:

1. A modification to §601(f)(2) minimum access drive separation distance.

The Applicant is also requesting approval of a Certificate of Urban Design Compliance as well as the following related modifications:

1. A modification to §420(g)(4)(C), which prohibits surface parking from abutting the boundary of a street right of way or the Linear Park; and
2. A modification to §420(g)(4)(C)(2), which requires that surface parking areas be screened with a brick or stone wall; and
3. A modification to §420(g)(4)(D), which requires that parking lot planting beds be separated from parking spaces and access aisles by concrete or masonry barrier curbing; and
4. A modification to §420(g)(4)(F)(2), which requires that parking lot planting islands shall have minimum dimensions of 9'x18'; and
5. A modification to §420(g)(4)(F)(3), which requires that parking lot planting islands be spaced at 90' intervals; and
6. A modification to §420(i) Table 420-4 to permit asphalt sidewalks; and
7. A modification to §420(i) Table 420-4, which requires street trees to be planted every 40' along a right-of-way; and
8. A modification to §420(i) Table 420-4, which requires street lights to be placed at 70' to 100' intervals along a right-of-way.

The Applicant is also requesting approval of a Certificate of Architectural Compliance as well as the following related modifications:

1. A modification to §420(j) Table 420-5, which requires freestanding lights to be fabricated of metal and glass and prohibits the use of high pressure sodium luminaries.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended approval of the following modifications related to the Certificate of Urban Design Compliance:

1. A modification to §420(g)(4)(C), which prohibits surface parking from abutting the boundary of a street right of way or the Linear Park based on 1) the absence of a principal structure on the property which could screen the proposed parking; 2) the screening provided on all but one side of the facility provided by the adjoining buildings 3) that the abutting right-of-way of Commerce Street does not meet the standards of a local street and has little vehicular and pedestrian traffic; and 4) the buffer provided by the 4' decorative fence and supplemental landscaping as a compensating feature; and
2. A modification to §420(g)(4)(C)(2), which requires that surface parking areas be screened with a minimum 3' brick or stone wall based on the substitution of a 4' decorative fence with supplemental landscaping to achieve a comparable barrier; and
3. A modification to §420(g)(4)(D), which requires that parking lot planting beds be separated from parking spaces and access aisles by concrete or masonry barrier curbing based on the necessity to provide sheet flow of stormwater and open drainage into the planting beds; and
4. A modification to §420(g)(4)(F)(2), which requires that parking lot planting islands shall have minimum dimensions of 9'x18' based on 1) the comparable surface area in planting islands achieved by the proposed design; and 2) the ability to maximize the density of parking spaces; and
5. A modification to §420(g)(4)(F)(3), which requires that parking lot planting islands be spaced at 90' intervals based on 1) the average distance being less than 90' intervals; and 2) the ability to maximize the density of parking spaces; and
6. A modification to §420(i) Table 420-4 to permit asphalt sidewalks based on the temporary nature of the project proposal and the desire to minimize damage associated with construction of the parking deck in the future as well as the proposal to construct the sidewalks to meet the CCO provisions in four years should construction in accordance with final site plan PC0959FSI have not yet begun.
7. A modification to §420(i) Table 420-4, which requires street trees to be planted every 40' along a right-of-way based on the temporary nature of the project proposal and the desire to minimize damage associated with construction of the parking deck in the future as well as the proposal to plant the required street trees to meet the CCO provisions in four years should construction in accordance with final site plan PC0959FSI have not yet begun.
8. A modification to §420(i) Table 420-4, which requires street lights to be placed at

70' to 100' intervals along a right-of-way based on the possible temporary nature of the project proposal; 2) the desire to minimize damage associated with construction of the parking deck in the future and; 3) the illumination provided by the lights that will be provided interior to the site as well as the proposal to upgrade the lighting to meet the CCO provisions in four years should construction in accordance with final site plan PC0959FSI have not yet begun.

Based on the approval of the above noted modifications, Staff recommended approval of a Certificate of Urban Design Compliance.

Staff recommended approval of the following modifications related to the Certificate of Architectural Compliance:

A modification to §420(j) Table 420-5, which requires freestanding lights to be fabricated of metal and glass and prohibits the use of high pressure sodium luminaries based on the temporary nature of the project proposal and the desire to minimize damage associated with construction of the parking deck in the future as well as the proposal to plant the upgrade the lighting to meet the CCO provisions in four years should construction in accordance with final site plan PC0959FSI have not yet begun.

Based on the approval of the above noted modification, Staff recommended approval of a Certificate of Architectural Compliance.

Staff recommended a modification to Section 601(f)(2) for the separation distances for the access point on East South Street based on the limited area to permit access to the site due to the panhandle lot layout and the separation distances required and the alignment of the entrance with the Winchester Street intersection.

Pending approval of the above modifications, Staff recommended approval of Final Site Plan PC10-45FSI with the following condition to be met in less than 60 days:

1. A note must be added to the plan stating, "The following improvements must be brought into compliance with the standards of the CCO within four (4) years of the opening operational date of the surface parking lot: 1) Street trees must be planted on Commerce Street in accordance with the standards of Table 420-4 2) Street lights must be erected on Commerce Street in accordance with the standards of Table 420-4. 3) Sidewalks must be constructed on Commerce Street in accordance with the standards of Table 420-4. 4) The interior parking light lighting must be constructed in accordance with Table 420-5."

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Brooks asked if it had been determined if the parking lot would be asphalt or gravel.

Mr. Love replied that it was determined that it would be a paved surface.

Mr. Zack Kershner, Deputy Director for Engineering, stated that the City plans to use recycled asphalt. It will be less expensive and it will last the four years that it is proposed.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

The City was the applicant, so no presentation was given.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of petitioner/applicant from the Planning Commission.

Commissioner Nash asked Mr. Weldon if he could clarify why Deck 6 is not being built at this time.

Mr. Richard Weldon, Executive Assistant to Mayor McClement, stated that the City cannot afford to build a parking deck at this time. The enterprise fund is stretched beyond its limit with the construction of Deck 5 and that construction of Deck 6 would be reevaluated in the future.

PUBLIC COMMENT:

Ms. Joan Jenkins stated that she had previously suggested the possibility of having a non-attendant meter for people to be able to park there in the evening or on trash night. She said since the area is becoming very populated the City could use this lot 24 hours a day. Ms. Jenkins asked that the City reevaluate the shuttle service and propose a stop in front of the Donald Shaffer building.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revision recommendations from planning staff.

PLANNING COMMISSION ACTION OF MODIFICATIONS FOR CERTIFICATE OF URBAN DESIGN COMPLIANCE:

MOTION: Commissioner Bokee made a motion to recommend approval of the 8 modifications for Certificate of Urban Design Compliance in the staff reports for April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR CERTIFICATE OF URBAN DESIGN COMPLIANCE:

MOTION: Commissioner Bokee moved to approve the Certificate of Urban Design Compliance based on the 8 modifications that were approved by the Planning Commission.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION OF MODIFICATIONS FOR CERTIFICATE OF ARCHITECTURAL COMPLIANCE:

MOTION: Commissioner Bokee made a motion to recommend approval of the 1 modification for the Certificate of Architectural Compliance as outlined in the staff report on April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR CERTIFICATE OF ARCHITECTURAL COMPLIANCE:

MOTION: Commissioner Bokee moved to approve Certificate of Architectural Compliance based on the 1 modification that was approved by the Planning Commission.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION OF MODIFICATIONS FOR SEPARATION DISTANCE:

MOTION: Commissioner Bokee moved to approve modification for the separation distances for the access point on East South Street as outlined in the staff report for April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR PC10-45FSI:

MOTION: Commissioner Bokee moved to approve final site plan PC10-45FSI with the 1 condition to be met in less than 60 days as outlined in the staff report of April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

E. PC10-42ZTA, Text Amendment, Residential Driveway and Parking Areas

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mrs. Dunn entered the entire staff report into the record. She stated that the City of Frederick is requesting approval for amendments to §309, "Site Plan Review," §510, "Modifications," and §803, "Accessory Uses and Structures" for the purposes of establishing lot coverage and setback requirements for driveways and paved parking areas in residential districts.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff supports a positive recommendation to the Mayor and Board of Aldermen for the proposed amendments to Section 309, 510, and 803 of the LMC as presented.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Nash asked about cars parked on a vacant lot and how would that be treated.

Mrs. Dunn replied that it would have to be on a paved surface and then it would become a parking facility without a principle use which would not be permitted on a residentially zoned property.

Commissioner Shreve asked that if he had a vacant lot beside his house that he could not pave a section of the vacant lot and park on it.

Mrs. Dunn said not as a separate lot. She stated that currently we do not have a permit process for paving and of course with this amendment a permitting process would be required.

Commissioner Bokee wanted to thank staff for providing the diagrams. He said it was very helpful.

Commissioner Shreve asked what is considered an oversized vehicle.

Mrs. Dunn replied that it is an 8 x 8 foot vehicle but more of the commercial scaled vehicles. The 8 foot width is excluding the mirrors and she found that to be the maximum big size truck a resident would have.

Alderman Russell stated the dimensions of an oversized vehicle and what they are looking at are essentially box trucks and vehicles bigger than that. She added that most vehicles will fit within those parameters and it would not exclude those people who work for companies and have to bring home large work trucks. Alderman Russell indicated that there is a misconception that this is going to ban all commercial vehicles from residential areas when in effect it is addressing sight distance issues, vehicles abutting into the travel portion of the lane, turning radiuses with these types of trucks in residential neighborhoods.

Commissioner Shreve stated that it is very difficult to get any type of automotive use in the City of Frederick.

Alderman Russell commented that we are only looking at the paving portion of this right now. She added there will be an opportunity for public comment on the ordinances that are going to be dealing with parking.

Commissioner Bokee stated that there are good points being mentioned and that this is a policy decision but that the Planning Commission is only considering whether or not to accept regulations that require a paved parking area to be 30 percent or less of a front yard or required front yard but the parking of oversized vehicles is not part of what has to be considered this evening.

Commissioner Brooks announced that he wanted to go on the record with his concerns that they are infringing on people's property rights. He strongly suggests that people go to the Mayor & Board of Aldermen meeting on Thursday night and make their voice heard.

Commissioner Shreve asked how this affects townhouses with garages in the front.

Mrs. Dunn stated that this was one of the concerns that led to the inclusion of modification authority in new developments because they wanted to be able to come through a site plan or preliminary plan process and have the front loaded garages and be able to modify the requirements at the Planning Commission level so they could exceed those requirements if needed.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

The City is applicant, so no presentation was given.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of petitioner/applicant from the Planning Commission.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revision recommendations from Planning staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee moved to recommend approval to the Mayor & Board of Aldermen text amendment PC10-42ZTA.

SECOND: Commissioner Nash.

VOTE: 3-2. (Commissioner Shreve & Commissioner Brooks opposed.)

VII. NEW BUSINESS:

F. PC10-66ZMA, Zoning Map Amendment, Lot 1- Sagner Park

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the applicant is seeking favorable recommendation to the Mayor and Board of Aldermen for a zoning map amendment for the purpose of removing the Parkland (PRK) Floating District and change the base zoning from Downtown Residential (DR) to Heavy Industrial (M2) on 0.88 acres of the City park property, located at 26 S. Wisner Street.

INITIAL PLANNING STAFF RECOMMENDATION:

This is the first of two required public hearings for zoning map amendments therefore; no action is required at this time.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

Mrs. Anne Rollins, Miles & Stockbridge, briefed the Commission on the history and description of the property. She stated that this property is being used for commercial purposes. She added that there is no action to be taken this evening but can answer any questions the Planning Commission may have and thanked them for their consideration.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of petitioner/applicant from the Planning Commission.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revision recommendations from Planning staff.

PLANNING COMMISSION ACTION:

This was the first of two hearing so no vote was taken.

G. PC09-398FSI, Final Site Plan, Market Square Residential

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the staff report into the record. He stated that the Applicant is requesting final site plan approval for the construction of 162 townhouses and 48 2-over-2 townhouse/condos for a total of 258 residential units.

Additionally, the Applicant is requesting the following modifications:

1. A modification to the parking requirements under §607(c)(5) to allow for off-site parking spaces to meet the minimum parking requirements for the 2-over-2 townhouse/condo units;
2. A modification to §803(a)(4) to allow accessory structures within 3' of the property line;
3. A modification to §803(a)(5) to allow accessory structures to exceed thirty (30) percent coverage of the required yard area in which they are located.

The Applicant is also requesting approval of the architectural elevations for compliance with the Class A building and urban design standards established in §604.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended approval of the following modifications:

1. A modification to the parking requirements under §607(c)(5) to allow for off-site parking spaces to meet the minimum parking requirements for 2-over-2 townhouse/condo units in accordance with the criteria under §607(c)(5)(A-E) and considering the mixed use design criteria under §417;

2. A modification to §863(a)(4) to allow accessory structures within the required 3' setback from the property line to a 0' interior yard setback considering the reduced lot sizes and compact design of the overall development;
3. A modification to §863(a)(5) to allow accessory structures to exceed 30% coverage of the required yard area where they are being placed considering the reduced lot sizes and compact design of the overall development.

Staff recommended approval of the architectural elevations based on compliance with the Class A building and urban design standards established in §604 as verified through the narrative and architectural elevations provided.

Staff recommended approval of final site plan PC09-398FSI with the following conditions:

To be met in Less than 60 Days:

1. Provide a note listing the modification requests and approval date.
2. Revise the garages or lot layouts of Lots 23, 24, 49, 68, 69, 114, 115, and 257 to meet the required 6' setback from the right-of-way.

To be met in Greater than 60 Days and within One Year:

1. Design the proposed roundabout at Osprey Way and Cormorant Place to meet FHWA Standards including flared islands, drive widths, mountable truck apron, crosswalks, etc. to the satisfaction of the Engineering Department or redesign the intersection to remove the roundabout.
2. Receive approval for and label the names for the private alleys on the plan.
3. Obtain unconditional approval of the preliminary subdivision plat and update note #1 with the approval date.
4. Update note #17 with the unconditional approval date for the preliminary forest plan.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:

Mr. David Lingg, Lingg Property Consulting, concurred with the staff report.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Bokee asked if the island in the middle of Osprey Way and Cormorant Place would be just grass.

Mr. Lingg stated that it would be a grassed island.

Commissioner Nash asked if there will be a playground at the neighborhood park.

Mr. Lingg replied that there will be some type of vertical structure like a gazebo or something of that nature for a gathering place. He added that there are areas on the linear parks for tot lots but the actual 1.2 acre neighborhood park would only have a gathering structure.

Commissioner Nash asked if any of the single family homes have porches.

Mr. Lingg said that the intent would be a combination of porches, covered stoops the typical neo-traditional design.

Commissioner Shreve stated that a stoop can be out of the building restriction lot but if you put a porch on it then it can't be. He added that staff recommended if porches are wanted they can apply for a modification. He suggested that they change they ordinance so they can do it up front instead of making it a separate process.

Mrs. Dunn replied that they went back and reviewed it and under the PND regulation there are the encroachment provisions under the mixed use there wasn't a reference to those. She added there are standard encroachments through out the City that are permitted under a different section of the code.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was no discussion or questions for staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatements/revision recommendations from Planning staff.

PLANNING COMMISSION ACTION OF MODIFICATIONS:

MOTION: Commissioner Brooks moved to recommend approval of the 3 modifications noted in the staff report for PC09-398FSI.

SECOND: Commissioner Bokee.

VOTE: 5-0.

PLANNING COMMISSION ACTION OF ARCHITECTURAL ELEVATIONS:

MOTION: Commissioner Bokee moved to approve the architectural elevations based on the compliance with the Class A building and urban design standards in 604 as verified through the narrative and architectural elevations provided as well as the 3 modifications that were approved by the Planning Commission this evening..

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION OF PC09-398FSI:

MOTION: Commissioner Bokee moved to approve final site plan PC09-398FSI with the 2 conditions to be met in less than 60 days and the 4 conditions to be met in greater than 60 days but within 1 year as read into the record by staff as well as listed in the staff report for April 12, 2010.

SECOND: Commissioner Brooks.

VOTE: 5-0.

Meeting adjourned at 7:35 P.M.

Respectfully Submitted,

Carreanne Eyler
Administrative Assistant