

**Planning Commission Hearing**

**Minutes**

**May 10, 2010**

<b>PC MEMBERS</b>	<b>PC MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>
<b>Alderman Russell</b>	<b>Meta Nash</b>	<b>Gabrielle Dunn, Division Manager of Current Planning</b>
<b>Josh Bokee</b>	<b>Gary Brooks</b>	<b>Brandon Mark, City Planner</b>
<b>Billy Shreve</b>	<b>Steve Stoyke</b>	<b>Pam Reppert, City Planner</b>
		<b>Tim Davis, Transportation Planner</b>
		<b>Devon Hahn, City Engineer</b>
		<b>Carreanne Eyler, Administrative Assistant</b>

**•I. ANNOUNCEMENTS:**

**II. APPROVAL OF MINUTES:**

Approval of the **April 12, 2010** Planning Commission Minutes as amended:

**CONTINUED TO JUNE 14, 2010 PC HEARING**

Approval of the **April 19, 2010** Workshop Minutes as amended:

**CONTINUED TO JUNE 14, 2010 PC HEARING**

Approval of the **May 7, 2010** Workshop Minutes as amended:

**MOTION:** Commissioner Shreve.

**SECOND:** Alderman Russell.

**VOTE:** 3-0.

### **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".*

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### **•IV. PUBLIC HEARING-CONSENT ITEMS:**

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(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.)

### **V. MISCELLANEOUS:**

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**A1. PC07-516FSI, Final Site Plan, McCutcheon's Apple Products, Inc.**

**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Applicant is requesting approval of a second extension of the conditions of approval assigned at the November 10, 2008 Planning Commission hearing.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Based on collaboration required between the Applicant and the City in regards to reaching an agreement on off-site parking and the pending changes to the parking regulations, Staff supports granting a 12 month extension of the conditions of approval to May 10, 2011.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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Mr. McCutcheon concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was on questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

**PETITIONER REBUTTAL:**

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There was not petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Alderman Russell moved to approve the recommendation for the extension to May 2011.

**SECOND: Commissioner Shreve.**

**VOTE: 3-0.**

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**A2. FY11 City/MDOT Transportation Priorities**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mr. Davis, Transportation Planner, entered the entire staff report into the record. He stated that the Transportation Priorities Review include all modes of transportation facilities review, conducted annually. While the scope of this review encompasses short and long term priorities, recommendations focus on the next fiscal year (FY11) priorities.

Mr. Davis stated that as done in the past years, staff has taken a position on listening to the community. Per the request of the Mayor, Mr. Davis stated that the review was conducted the same way, but that the approach this year included meetings with the different MDoT Administration Staff and asked, what the priorities are for Frederick and if there any funding competition issues with those priorities. In using this approach a more all-encompassing understanding is established and everyone, more than ever, is speaking from the same page.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Mr. Davis stated that the recommendations are broken down in the simplest terms. In light of the current economic conditions, and the two consecutive years of funding deferrals at the state level, a conservative list from each category is recommended. Any changes from these recommendations are welcomed and will be carried forward to the Mayor and Board of Aldermen.

### **PLANNING COMMISSION QUESTIONING OF STAFF:**

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Alderman Russell feels it is a great concept and glad to see it going into this direction.

Commissioner Bokee asked why the I-270/US15 Multi-Modal Corridor Study Break Out Projects are not listed as a priority in this request.

Mr. Davis stated that it is mentioned in the report that the breakouts through the City are something that should be prioritized but the schedule of the I-270/US15 Multi-Modal project will not get the tier one approvals until the later part of 2012 at which time the transit side and highway side take their own paths and when the highway side would take its own path, it would be appropriate to deliberate which project would become priority.

Commissioner Bokee questioned if the Local Transit-Expand Connector Route Service is a priority and if that refers to the shuttle service? It is listed as a BRAC priority, that is partially funding as well but how do they determine that and see that need?

Mr. Davis replied that the BRAC is used extensively in the County's report as a reasoning for lighter transportation and infrastructure improvements and rightfully so because in Frederick the National Cancer Institute and the growth of Riverside Corporate Park as viewed as being BRAC related. He stated the US 15/Monocacy Blvd is a BRAC related project as is the Walkersville Shuttle.

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

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City was applicant, so no presentation was given.

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**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was on questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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Miss Anna Kelso, Frederick Bicycle Coalition, stated that while it doesn't directly relate to the I-270 project, it does relate to the Rails to Trails and the continuation of the link under US15, part of the Multi Use Path. She feels these 2 projects are essential to improving the connectivity of the bike trails, not only by increasing the diversity of transportation options but as well as improving the livability of the community and making Frederick a Bicycle Friendly Community. Miss Kelso feels that it is a smart decision for the City so please consider these 2 projects for the transportation program.

Mr. Davis stated that in the report it mentions the East Street enhancement project and that would be the beginning of the Rails to Trails and it could be easily incorporated for what needs to be done for that access.

**PETITIONER REBUTTAL:**

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There was not petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Shreve made a motion to recommend the City Transportation Priorities to the Mayor & Board of Aldermen.

**SECOND:** Alderman Russell.

**VOTE:** 3-0.

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**VI. OLD BUSINESS:**

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



**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Ms. Reppert entered the entire staff report into the record. She stated that the Applicant is requesting a recommendation of approval from the Planning Commission to the Mayor and Board of Aldermen for a zoning map amendment to remove the Open Space (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.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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Based on the following findings, Staff recommends a favorable recommendation to the Mayor and Board of Aldermen for approval of the zoning map amendment to remove the PRK floating zone from the 0.88 acre portion of the property at 26 S. Wisner Street and for the change in the subject area's base zone from DR (Downtown Residential) to M2 (Heavy Industrial):

- 1) The finding that the failure to recognize that the existing and historical use of the property as a storage facility during the 2005 Comprehensive Rezoning led to the rezoning of the property in a manner which is consistent with its use and that constitutes a mistake in accordance with Section 306 of the LMC.
- 2) The finding that the subdivision and transfer of the property from the City to the Applicant will make the subject area of the lot no longer in compliance with the criteria of the PRK floating zone.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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Ms. Ann Rollins, Miles & Stockbridge concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**PUBLIC COMMENT:**

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Mr. Bob McCutcheon, McCutcheon Apple Products stated that allowing the applicant to further utilize their facility would be a real asset and would like the amendment to get approved.

**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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There were no discussions or questions for staff from the Planning Commission.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions recommendations from Planning Staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Alderman Russell moved to recommend approval of the zoning map amendment to remove the PRK floating zone from the 0.88 acre portion of the property at 26 S. Wisner Street and for the change in the subject area's base zone from DR to M2 after consideration of the 5 characteristics required in Article 66 (b) and the LMC on the population change, the availability of public facilities, present & future transportation pattern, compatibility with existing and proposed developments, compatibility with City's comprehensive plan and considering the change or mistake in zoning and finding the failure to recognize the existing historical use of the property which led to the rezoning in a manner which is inconsistent and transfer of the property will make the subject area of the lot no longer in compliance with the criteria of the PRK floating zone.

**SECOND:** Commissioner Shreve.

**VOTE:** 3-0.

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**VII. NEW BUSINESS:**

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**C. PC10-17FSU, Final Subdivision Plat, Sagner Lots 1 & 2**

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## **INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Ms. Reppert entered the entire staff report into the record. She stated that the City of Frederick requests approval to subdivide the Sagner Park lot containing 4.51 acres into two (2) lots, Lot 1 to include 0.88 acres and Lot 2 for 3.63 acres.

A modification is requested from Section 606(b)(2) requiring all lots to front on a public street or access.

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## **INITIAL PLANNING STAFF RECOMMENDATION:**

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In accordance with Section 606(b)(2), Staff recommends approval of the modification from the minimum frontage requirements specified in Section 606(e)(1) and Section 405, Table 405-1 to create two lots with no road frontage conditioned upon the recordation of a cross access easement agreement between the Willard Agri-Service of Frederick Inc. and the City of Frederick.

Staff recommends approval of Final Plat #PC10-17FSU for the Sagner Park, Lots 1 and 2, with the following conditions to be met:

Within 60 days:

- 1. Add revision block and date.
- 2. Update Note #9 with correct approval date for case #PC10-87FSCB.
- 3. Show proposed forest conservation planting area and acreage on plat.
- 4. Delete note #7 and move text into the Department of Health signature block.
- 5. Adjust easement area 1 not to encroach into the public right-of-way and show any necessary right-of-way dedication for South Wisner Street to curb, plus reflect corrections in the Table of Areas.

More than 60 days and less than one year:

- 1. Execute and record cross access easement agreements between Willard Agri-Service of Frederick Inc. and the City of Frederick.
- 2. Complete Note #5 with recording references for access agreement.
- 3. Add the Final Forest Conservation Plan case number and approval date, plus the protection easement agreement(s) references to Note #9.
- 4. Health Department review fee to be paid.

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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Ms. Ann Rollins, Miles & Stockbridge noted for the record that her client is not the applicant but the City is the applicant. She added that the contract purchaser is supportive of this request.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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Mr. Scott Waxter, Assistant City Attorney asked if there was an ownership issue where there would be a dedication of development because the applicant owned out to the middle of the street, is that labeled correctly.

Ms. Rollins replied that the understand is that at one point the original lot line went to that point but then the City however, acquired that as a street dedication. She added that if it needs to be corrected that is fine.

Mr. Waxter said he thought it showed on the current subdivision that Ms. Rollins client owned out to the middle of the street and thought it would be reflected on the plat that there was going to be a dedication of that area.

Ms. Rollins stated that if there is an area to be dedicated they are certainly happy to do that but she thought that Mr. Bill Lankford, City Surveyor, had corrected the plat accordingly.

Mr. Waxter just wanted to clarify for the Commission that it was his understanding that there was some ownership issue out to the center of the street and that it was going to be shown on this plat that there was going to be a dedication of that. He added that it sounds like all parties are in agreement on it but will have to follow up with Mr. Lankford.

**PUBLIC COMMENT:**

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There was no public comment.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION FOR MODIFICATION:**

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**MOTION:** Commissioner Shreve moved to recommend approval of the modification for the minimum footage requirements specified in Section 606 (e) (1) and Section 405, Table 405-1 to create two lots with no road frontage conditioned upon the recordation of a cross access easement agreement between the Willard Agri-Service Frederick, Inc. and the City of Frederick.

**SECOND:** Alderman Russell.

**VOTE:** 3-0.

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**PLANNING COMMISSION ACTION FOR PC10-17FSU:**

**MOTION:** Commissioner Shreve recommended approval of Final Plat PC10-17FSU for the Sagner Park, Lots 1 & 2 with conditions to be met in 60 days: add revision block and date, update Note # 9 with correct approval date for case PC10-87FSCB, show proposed forest conservation planting area and acreage on plat, add note 7 for a signature block for the Health Department, adjust right of way area and easement and with conditions to be met in more than 60 days and less than one year: execute and record cross access easement agreements between Willard Agri-Service of Frederick, Inc. and the City of Frederick, complete not # 5 with recording references for access agreement, add the final forest conservation plan case number and approval date, plus the protection easement agreements references to note # 9, submit fees to the Health Department.

**SECOND:** Alderman Russell.

**VOTE:** 3-0.

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**D. PC10-87FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Sagner Lots 1 & 2**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Ms. Reppert entered the entire staff report into record. She stated that the City of Frederick requests approval of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan associated with the final subdivision plat for Sagner Park.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommends approval of Combined Forest Stand Delineation and Preliminary Forest Conservation Plan #PC10-87FSCB for the Sagner Park, Lots 1 and 2, conditioned on the following conditions to be met:



Within 60 days:

- 1. Add Red Mulberry to the specimen tree table and add a column to declaring which specimen trees will be retained or removed.
- 2. Provide a plant schedule with species, quantity to be planted and survival percentage and numbers.
- 3. Delete the Maintenance Activity table.

Greater than 60 days and less than one year:

- 1. Obtain Potomac Edison approval of planting plan.

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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City was applicant, so no presentation was given.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was not questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Alderman Russell made a motion to recommend approval of Combined Forest Stand Delineation and Preliminary Forest Conservation Plan PC10-87FSCB as read into the record by Ms. Reppert.

**SECOND: Alderman Shreve.**

**VOTE: 3-0.**

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**E. PC10-91PCM, Fence Modification, 1321 Split Rail Lane**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mr. Mark entered the entire staff report into the record. He stated that the subject property is located at 1321 Split Rail Lane in the Hillcrest Orchards Subdivision. The zoning for the property is R8, Medium Density Residential. The proposal is to construct a fence that exceeds the height restrictions for a reverse corner lot per Section 821(b)(3)(C) of the Land Management Code (LMC).

The subject property is a corner lot which is considered to have a front yard along both Split Rail Lane and Postoak Road. Fencing is only permitted in the "secondary" front yard of a corner lot - in this case along Postoak Road- provided that:

- 1) The fence is no higher than 2 ½ feet in height or less within the sight distance triangle area of any adjoining driveway, alley, or street;
- 2) The fence is constructed at least one-quarter of the building depth back from the face of the building; and
- 3) In the case of reversed corner lots, the fencing cannot exceed four feet in height along the property line of the secondary frontage.

This lot is considered a "reversed corner lot" because the house which adjoins this property along its secondary frontage-501 Postoak Road- actually fronts on Postoak Road. In all other cases, the maximum permitted height of fences in residential zoning districts is six feet. Should the Applicant wish to construct a six foot fence it would have to be setback from the property line on Postoak Road at least 25'- the minimum required street setback- unless modified by the Planning Commission.

Included with this report is the application packet submitted with drawings and supplemental material. The fence in question is a six foot tall wooden shadow box fence capped with lattice.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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Based on compliance with the criteria established in 309(m) and 820(d)(3) and the following conditions, Staff recommends approval of the modification PC10-91PCM:

1. In order to ensure the visibility of pedestrians and vehicles from the adjoining driveway and to maintain a pedestrian oriented streetscape, the proposed fence must be shifted five feet back from the secondary frontage property line located along Postoak Road, and
2. The applicant must receive an approved permit from the building department to construct the fence

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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Mrs. Gayle Overton stated that the recommendation was 5 feet from the curb but in the email it said 2-5 feet from the curb. She added that the fence is currently 2 feet from the sidewalk. When the initial meeting was held it was suggested that because of sight distance concerns related to the neighbor's driveway, that part of the fence be angled which she is okay with.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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Commissioner Shreve asked staff if they could clarify to the applicant if it was going to be 2-5 or just 5 feet from the curb.

Mrs. Dunn replied that in working with the traffic engineer on the recommendation, that the 5 feet from the perspective of planning staff's mitigated the concerns about maintaining a pedestrian oriented streetscape and moving that physical barrier away from the sidewalk as well as the concerns related to sight distance.

Commissioner Shreve asked the applicant how far they would like to see the fence.

Mr. Collis Overton replied that he feels 2 feet is fair because there is plenty of space and without the fence coming into effect so the 2 feet line would be great.

Alderman Russell stated that she was confused because the applicants said that fence is already built 2 feet from the curb.

Mrs. Overton said that it is not completed.

Mr. Overton said it is  $\frac{3}{4}$  of the way done and have not finished the last part.

Mrs. Overton said the posts are in the ground along Postoak Road and they are currently 2 feet from the sidewalk. She said before the project was even started she had contacted the City as well as the contractor had contacted the City and both were told they did not need a permit for the fence.

Alderman Russell asked if they applied for a permit.

Mrs. Overton said yes they have a permit now.

Alderman Russell asked when the permit was applied for.

Mrs. Overton replied on January 20, 2010.

Mr. Overton said once they were told they would need a permit they went to the Neighborhood Advisory Committee and not one person there said they had an issue with it.

Mrs. Dunn said they got a permit approved for a 4 foot fence up to the property line which would be in compliance with Section 821 for the height because it is a maximum of 4 feet along the secondary frontage of a corner lot and then it was determined that the applicant wanted to amend it to a 6 foot fence.

Mr. Overton stated that they had a 4 foot split rail fence and people were going through the property and smashing things as well as taking things and that is why we are pressing for the 6 foot fence.

Mrs. Devon Hahn, City Traffic Engineer, stated that staff could support the 2 feet offset if they were willing to cut off the one corner where the adjacent neighbor's driveway is, that would help. She added that primarily they were looking at the 5 foot offset so there was adequate room for people to get by but recognizes that there is grass on either side of the sidewalk. Mrs. Hahn said that sight distance for the vehicles coming out of the driveways was the main concern especially with a 6 foot fence.

Alderman Russell stated there was building without a permit, a permit applied for, a permit that was granted with certain conditions which have not been adhered to and the 5 foot recommendation that staff says would help preserve the character of the neighborhood, would give the sight distance and so forth and feels it is a good compromise.

Mr. Waxter stated that when it is approved, for either 2 feet or 5 feet, that the applicant still needs to remember they are responsible for cutting the grass on the outside of that fence.

**PUBLIC COMMENT:**

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Alan Imhoff stated that there are 2 examples that could be used if needed which is at the corner of Fairview and Rosemont and then one in Dearbought on the back alley near the park with a 6 foot height fence that was angled as well.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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Alderman Russell asked if staff concurred that it was a safe and acceptable compromise?

Mrs. Dunn replied bringing it 5 feet back from the corner of property line at the rear adjacent to the home that fronts on Postoak and the remainder of the fence to be set back 2 feet.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Shreve moved to approve for case PC10-91PCM 1321 Split Rail Lane to modify the location of the fence according to exhibit A which is part of the record for the fence to be 2 feet back from Postoak Road in the right corner adjoining 501 Postoak Road and that the fence is set in 5 feet from the back property line and the road frontage so it is at an angle to that corner.

**SECOND:** Alderman Russell.

**VOTE:** 3-0.

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**F. PC10-25PSU, Preliminary Subdivision Plat, North Market Revitalization**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mr. Mark entered the entire staff report into the record. He stated that the Applicant is requesting approval to revise the preliminary subdivision plat for the North Market Revitalization project by reconfiguring the lot lines to create one new residential lot. The subject properties are located at 18 and 20 West 7<sup>th</sup> Street, lot 63 and proposed lots 62A and B respectively, in the Downtown Residential district (DR). The properties are also located in the Historic Preservation Overlay (HPO).

In addition, the Applicant is also requesting a modification from Section 607(d)(1)(A) to allow for parking spaces that do not meet the Standard Specifications.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff supports the modification request from Section 607(d)(1)(A) of the LMC for the minimum parking space width required by the City Standard Specifications on the basis that the marginal reduction in the width allows for the creation of the minimum required number of parking spaces per unit and based on the nature of residential parking.

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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Mr. Chris Smariga, Harris, Smariga & Associates, Inc. stated that the lot that was transferred to Habitat for Humanity from the group who is developing the North Market/Hope VI project. He added that they did submit a letter documenting that the lot widths are consistent with the older neighborhood. Mr. Smariga also stated they had to ask for a modification of 1/10 of a foot for each parking space but it is just 6 spaces in a small residential alley so it's not a whole lot of traffic.

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**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was not questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION MINIMUM PARKING SPACE WIDTH:**

**MOTION:** Alderman Russell recommended approval of the modification as read into the record by staff.

**SECOND:** Commissioner Shreve.

**VOTE:** 3-0.

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**PLANNING COMMISSION ACTION:**

**MOTION:** Alderman Russell moved for conditional approval of PC10-25PSU as read into the record by staff.

**SECOND:** Commissioner Shreve.

**VOTE:** 3-0.

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**F. PC10-101ZTA, Zoning Text Amendment, Text Amendment Process**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Planning Department is proposing revisions to Section 306 of the Land Management Code (LMC) entitled, "Land Management Code Amendment and Rezoning," in order to eliminate the requirement that text amendments be heard at two public hearings by the Planning Commission prior to moving forward to the Mayor and Board for final action.

This is the first of two required public hearings, and as such, no action by the Planning Commission is required at this time.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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This is the first of two required public hearings for the proposed amendment and as such, a recommendation to the Mayor and Board of Alderman is not required at this time. The second public hearing is tentatively scheduled for June 14, 2010.

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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City was applicant, so no presentation was given.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was not questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

This is the first of two hearings so no vote was taken.

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**H. PC10-101ZTA, Zoning Text Amendment, Downtown Parking Area**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Land Management Code (LMC) Workgroup is proposing amendments to Section 607, "Parking and Loading Standards," of the LMC in order to eliminate the minimum parking requirements for a designated area of the downtown.

This is the first of two required public hearings on the proposed amendment.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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This is the first of two required public hearings on the proposed text amendment and as such no action is required at this time. Staff is seeking the input of the Planning Commission on the alternatives discussed in this staff report.

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**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

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

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City was applicant, so no presentation was given.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was not questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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Krista McGowan, Chairman of LMC Workgroup, stated that the Workgroup does propose to send this text amendment as drafted. She feels it is not perfect but something needs to be done. She added that this needs to be looked at more broadly than parking cars, other options need to be looked at like shuttles, transit and possible increased bus routes solutions as it moves forward. Ms. McGowan stated that she believes this is the right step to help development downtown. She added that this should not be only pertaining to certain zoning districts, but it should pertain to all zoning districts. She would like this to move forward.

Mr. Richard Griffin, Director of Economic Development, stated that in the prior zoning ordinance for the City before the LMC there was an area located in downtown that did not have a parking requirement that it was exempt. The purpose of that was to be an incentive to get people to invest in properties, to get businesses to move downtown and the parking garages played a major roll for offsite parking for those who did not have the onsite parking. He added that they wanted to make it fair for all zoning districts because there are a lot of properties with opportunities for infill. Mr. Griffin supports all the work that has went into this text amendment, feels it is a good effort and should moved forward with the slightly modified boundary district.

Commissioner Bokee questioned considering an alternative such that Commission has the option to be able to waive the parking requirement so fewer than 20,000, or whatever figure is decided, is exempted and over 20,000 the Commission would be able to waive the requirements for parking.

Mr. Griffin feels that is a reasonable option and that it puts a little more power in the Commission's hands to examine it on a case by case basis. His only hesitation would be what criteria would be evaluated and that would be an important thing to know. The way the code is written it ties our hands on the administration.

Mrs. Dunn stated with the code there is an offsite parking modification that can be granted by the Planning Commission contingent upon the applicant documenting that they have an agreement with an offsite property owner for the secured use of parking spaces. It was not intended to apply to the parking decks. It is intended to apply between 2 property owners and to be a private agreement. It can be problematic if you try to make that same application of that modification to the City and the parking decks so then you'll have a public/private agreement because there are issues associated with public parking deck.

Mr. Griffin thinks that identifying a very specific area within a reasonable distance of the parking garages so that the properties in that area would be exempt is the right thing to do. He added that putting a cap perhaps on it to allow the Commission to evaluate whether somebody creating any difficulties in the neighborhood he thinks could be a possibility we would just have to be very careful about writing the criteria.

Commissioner Shreve agreed with Mr. Griffin's point that what the criteria is if you are going to put a cap on it because you are not going to encourage development if it is opened ended.



Mrs. Dunn clarified that under the existing provisions of the LMC, a developer that is under 5,000 square feet or a change of use if zoned DB or DBO regardless of boundaries isn't required to provide the parking. between 5,000 & 10,000- the developer must provide the balance of the parking generated between that, and then beyond the 10,000, then the developer must provide the full parking requirement but that is zoning specific.

Mr. Bob McCutcheon, McCutcheon Apple Products, concurred with the recommendations from staff.

Mr. Alan Imhoff stated that he would like to have this amendment move forward and feels this is the best thing the City can do right now.

Mr. Michael Dunn, Frederick Bicycle Coalition, stated that if the parking is going to be decreased that the Frederick Bicycle Coalition would like to push forward the idea of "sharrows." He added there are reasons why cities can't have bike lanes, one is there is not enough bicycles to justify having a bike lane, it can be too expensive and loss of parking. Mr. Dunn stated some benefits of having a sharrow for bicyclists and he feels this amendment would be good for the city.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

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**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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Alderman Russell asked if this amendment does move forward will this effect bicycle parking?

Mrs. Dunn stated that in the LMC we do want to amend the text to not exempt people from providing bicycle parking so it will be brought back revised in the text amendment.

Commissioner Bokee stated that the City lot by the MARC station and the lot for Deck 6 should be taken into consideration. He added there was a lot in this proposal that he likes. He would like staff to communicate with the NAC liaison.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revision recommendations from planning staff.

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**PLANNING COMMISSION ACTION:**

This is the first of two hearings so no vote was taken.

**Meeting adjourned at 7:55 P.M.**

Respectfully Submitted,

Carreanne Eyer

Administrative Assistant