

**Planning Commission Hearing Minutes  
July 13, 2015**

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Alderman Russell Kate McConnell Barbara Nicklas Andrew Brown Arlene Perkins		Gabrielle Collard -Division Manager for Current Planning Joe Adkins – Deputy Director for Planning Scott Waxter- Assistant City Attorney Brandon Mark – City Planner Jeff Love – City Planner Jackie Marsh – City Planner Devon Hahn – City Traffic Engineer Carreanne Eyler – Administrative Assistant

**I. ANNOUNCEMENTS:**

Ms. Collard stated that the Planning Commission workshop agenda is on the city website and meeting is Monday, July 20th at 2 p.m. for anyone who would like to attend. Also, the agenda for this evening has been revised with the Election of Officers as agenda item A.

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Approval of the **June 5, 2015** Pre-Planning Commission Meeting Minutes as published:

**MOTION:** Commissioner Nicklas.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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Approval of the **June 8, 2015** Planning Commission Meeting Minutes as published:

**MOTION:** Commissioner Nicklas.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 4-1. (Commissioner McConnell abstained).

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Approval of the **May 8, 2015** Planning Commission Workshop Minutes as published:

**MOTION:** Commissioner Nicklas.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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Approval of the **July 10, 2015** Pre-Planning Commission Meeting Minutes as published:

**MOTION:** Commissioner Nicklas.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 4-1 (Commissioner McConnell 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.)

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**V. MISCELLANEOUS:**

**A. Election of Officers**

**CHAIRPERSON**

**MOTION:** Commissioner Nicklas nominated Commissioner McConnell as Chairperson of the Planning Commission.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**VICE CHAIRPERSON**

**MOTION:** Commissioner Perkins nominated Commissioner Nicklas as Vice Chairperson of the Planning Commission.  
**SECOND:** Commissioner McConnell.  
**DISCUSSION:** Alderman Russell stated due to experience in the field and tenure she nominated Commissioner Brown and Commissioner McConnell concurred and stated she would recommend Commissioner Brown as well.  
**VOTE:** 1-3. (Commissioner Brown abstained).

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**VICE CHAIRPERSON**

**MOTION:** Commissioner McConnell nominated Commissioner Brown as Vice Chairperson of the Planning Commission.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**SECRETARY**

**MOTION:** Commissioner Nicklas nominated Alderman Russell as Secretary of the Planning Commission.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**B. STF08-674FSI, Final Site Plan, Crossroad Motel, LLC**

Mr. Love entered the entire staff report into the record. There was no public comment on this item.

**Planning Commission Action:**

**MOTION:** Commissioner Nicklas moved to extend the expiration of final site plan STF08-674FSI to July 4, 2016.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 4-1. (Commissioner Brown abstained).

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**VI. OLD BUSINESS:**

**C. PC15-318FSI, Final Site Plan, Worman's Mill Village Center**

Mr. Love entered the entire staff report into the record. There was public comment on this item.

Lisa Boyle of Merchant Street stated that some of the revisions are better but still feels that it doesn't meet the excellence of the first drawings. She feels the applicant needs to make some more changes before being approved. She submitted a letter via email to Jeff Love of her concerns and how there are ways to make this a better project.

**Planning Commission Action:**

**MOTION:** Commissioner Brown moved for the approval of the architectural elevations inclusive of the revisions submitted as exhibits 6, 9, 12, 13 at the July 13, 2015 meeting and with notations which include:  
a. The inclusion of four-panel doors at points of egress on the rear elevations of all buildings.  
b. The notation that no two side-by-side units will have the same building colors.  
**SECOND:** Commissioner Nicklas.  
**VOTE:** 5-0.

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**D. PC14-1044ZMA, Zoning Map Amendment, Catoctin Overlook**

**E. PC14-1041MP, Master Plan, Catoctin Overlook**

Ms. Collard read the entire staff report into the record. There was public comment on this item.

Peter Samuel of 102 W. 3<sup>rd</sup> Street feels that it is good that this project is moving forward.

**PC14-1044ZMA, Zoning Map Amendment**

**Planning Commission Action:**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of PC14-1044ZMA to rezone the subject property from Neighborhood Commercial (NC) to apply the Mixed Use Floating Zone (MU-2) based on the 6 findings of facts and the 1 condition as read into the record by staff.  
**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**PC14-1041MP, Master Plan**

**Planning Commission Action Per Section 601(f) (2):**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the modifications to Section 601(f)(2), Table 601-2, Separation Standards, in order to retain the existing access points based on the physical land restrictions surrounding the Property and with the compensating feature of the street improvements articulated under the CAPF-Roads.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 417(c):**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the modifications to Section 417 (c), Table 417-2, Setback for Principal Buildings, based on maintain the existing structure as a compensating feature and the quality of design afforded by the modifications in contributing to the overall goals and objectives of the Mixed Use District.

**SECOND:** Commissioner Brown.

**VOTE:** 5-0.

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**Planning Commission Action for Parkland Waiver:**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for a waiver of the parkland requirement under Section 608, Parks and Open Space, based on the availability of parkland in the vicinity and the finding that with the Applicant's construction of the Rails with Trails improvements in the vicinity of the development and the proposed private open space and amenities are reasonable functional to serve the development.

**SECOND:** Commissioner Brown.

**VOTE:** 5-0.

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**Planning Commission Action for PC14-1041MU:**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for approval of the master plan based on the finding that the proposal complies with the development technique standards of Section 417 with the 2 conditions as read into the record by staff.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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F. PC14-912ZMA, Zoning Map Amendment, Renn Property

G. PC14-913MU, Master Plan, Renn Property

Ms. Marsh entered the entire staff report into the record. There was no public comment on this item.

**Planning Commission Action:**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of PC14-912ZMA for the rezoning of the subject property from Light Industrial (M1) to the Mixed Use Floating zone (MU-2) while maintaining the Airport Overlay (AO) zone with the following conditions:

1. The Applicant shall dedicate the entire area delineated as floodplain on the preliminary subdivision plat to the City and the Applicant shall have the right to request credits against the parkland impact fee by reason of this dedication, pursuant Section 608(f)(3) of the LMC, with details of such credits to be finalized as the Project proceeds throughout the approval process
  - A. Applicant shall have the right to plant required Forest Conservation Ordinance plantings in the dedicated area, in accordance with the prescribed process and necessary approvals
  - B. Applicant shall have the right on construct storm water management facilities in the dedicated area, in accordance with the prescribed process and necessary approvals
2. The Applicant will fully construct the Shared Use Path from the terminus of the portion within the development to Highland Street where it enters into City land and will enter into all easements/agreements necessary for its completion.
3. All afforestation shall be required onsite due to the amount that is deemed priority area with afforestation within any required public parkland dedication subject to Mayor and Board approval.
4. The Applicant shall enter into an agreement with the City for the completion of the necessary widening and reconfiguration of Monocacy Blvd between the southern property line and E. Patrick St. The Memorandum of Understanding (MOU) will need to address issues such as right of way acquisition, maintenance, and financing.
5. All future home sales shall include a disclosure statement regarding the site's proximity to the Frederick Municipal Airport. A disclosure statement must also be provided on all sales or promotional materials for homes in the community.
6. The area shown on the master plan in the northern most portion of the "regional open space" that coincides with the Runway Inner Safety Zone shall not be improved, developed, or disturbed in any manner which creates either a passive or active area where people will congregate. In addition, any storm water management facilities in this area shall be located underground and there shall be no plantings of any kind. The specific area in the RPZ shall not be used for afforestation/forest conservation requirements.  
finding that the applicant must supply the appropriate FAA approval documentation prior to the issuance of improvement plan permits.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

**Master Plan**

**Planning Commission Action Per Section 417 (b) (1):**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 417(b)(1), Table 417-1, *Uses, Densities/Intensities, Land Allocations*, in order to reduce the minimum land allocation requirement for non-residential uses from 15% to 4%.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 417 (c)(1)(A):**

**MOTION:** Commissioner Brown moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 417(c)(1)(A), Table 417-2, *Setbacks for Principal Buildings MU District*, to allow for the reduction in street setbacks, the reduction in rear yard requirements, the reduction of frontage requirements, and to allow for lots without public road frontage as depicted in the Design Booklet based on the review and approvals of the Engineering Department and Fire Protection Engineer and the provision of all necessary access easements and agreements at the time of preliminary subdivision plat/final site plan to ensure access for utilities, vehicles, City services, and emergency vehicles and based on the quality of design afforded by the modifications in contributing to the overall goals and objectives of the Mixed Use District.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 606 (g)(5):**

**MOTION:** Commissioner Brown moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 606 (g)(5), to allow for an adjustment for front yard measurement requirements for lots that front right of ways less than 50 feet finding that the proposed lot layouts as depicted in the Design Booklet meet the goals and objectives of the Mixed Use Districts.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 611 (s)(3):**

**MOTION:** Commissioner Brown moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 611 (s)(3), to allow for the adjustment of sidewalk locations finding that this flexibility contributes to a design that supports the goals and objectives of the Mixed Use District.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 611 (m)(1), Section 611 (e):**

**MOTION:** Commissioner Perkins moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 611 (m)(1), Section 611 (e), Table 611-2, *Community Design Streets*, to allow for the reduction in curb radii for public roads and alleys finding that they are compatible with the surrounding neighborhood and the overall development of the City, that they will not be detrimental to the public health and safety or the delivery of public services and that mitigation measures are provided that resolve any issues and address the purpose and intent of the regulations, namely the flexibility for further analysis of the implementation of the details at subsequent stages of the development process to ensure adequacy.

**SECOND:** Commissioner Nicklas.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 607 (b):**

**MOTION:** Commissioner Nicklas moved for a positive recommendation to the Mayor & Board of Aldermen for the approval of a modification to Section 607(b), Table 607-1, to allow for off street parking finding that the provisions of shared parking and joint use parking, coupled with the necessary pedestrian infrastructure as required under the Mixed Use district contributes to a pedestrian oriented environment by limiting excess parking and encouraging more pedestrian trips subject to further review at the time of preliminary and/or final site plan review.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Planning Commission Action Per Section 4-11 (b)(1):**

**MOTION:** Commissioner Perkins moved for a positive recommendation to the Mayor & Board of Aldermen for a finding of adequacy for the following roads/intersections based on the fact that adequacy as specified in Section 4-11(b)(1) and Section 1203 of the LMC cannot be achieved without alteration or removal of existing structures, and based on the finding that the developer has incorporated as much mitigation as reasonably possible in accordance with Section 4-11(b)(1)(D) of the APFO:

- East St at E. Church St
- East St at E. Patrick St
- E. Church St at Highland St

**SECOND:** Commissioner Nicklas.

**VOTE:** 5-0.

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**Planning Commission Action for PC14-913MU:**

**MOTION:** Commissioner Nicklas moved for a positive recommendation in to the Mayor and Board of Aldermen for approval of PC14-913MU based on the finding that the proposal complies with the development technique standards of Section 417 with the following conditions:

1. That a note is added to the master plan stating, "Public Street Details represent the minimum sections allowable and application thereof is subject to final review at the time of Preliminary Subdivision Plat to ensure that all City services and applicable utilities (public/private) are adequately accommodated for."
2. An MPDU Payment Agreement must be executed before the master plan can be unconditionally approved

**SECOND:** Commissioner Brown.  
**VOTE:** 5-0.

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**VII. NEW BUSINESS:**

**H. PC15-400FSCB, Combined FSD/PFCP, Northgate**

**Planning Commission Action:**

**MOTION:** Commissioner Nicklas moved for the approval of PC15-400FSCB in accordance with Section 721 to pay \$86,640.84 fee in lieu of 6.63 acres of planting requirement conditioned upon the 5 conditions to be met as read into the record by staff.

**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**I. PC15-198FSI, Final Site Plan, Food Pro**

Mr. Mark entered the entire staff report into the record. There was no public comment on this item.

**Planning Commission Action Per Section 607 (d) (2):**

**MOTION:** Commissioner Nicklas moved for the approval of a modification to Section 607 (d)(2) for the use of 15 off-site parking spaces located at 333 East 5<sup>th</sup> Street finding that the off-site parking spaces represents less than 50% of the required number of parking spaces, the off-site parking lot has sufficient number of parking spaces for the principal use, the off-site parking lot is under the same ownership of FoodPRO, and the property owner understands that the loss of the off-site parking spaces will void any applicable zoning or occupancy permit .

**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**Planning Commission Action Per Section 607:**

**MOTION:** Commissioner Nicklas moved for the approval of a modification to Section 607 , Table 607-1 for the reduction of the minimum parking spaces from 115 spaces to 96 spaces including the off-site parking spaces, finding that the modification is not contrary to the



purpose and intent of the LMC, the modification is consistent with the Comprehensive Plan in that the expansion of the business along the East Street Corridor is consistent with Economic Development Policy 5, "Encourage revitalization and reinvestment in traditional business corridors" and that the Applicant provided 20 bicycle parking spaces as a compensating feature.

**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**Planning Commission Action for PC15-198FSI:**

**MOTION:** Commissioner Nicklas moved for the approval of PC15-198FSI with the following conditions to be met:

1. The Applicant revises the Construction Schedule Phasing to note that the 5 year time frame was approved by the Planning Commission on July 13, 2015.
2. The Applicant provide a note and show the location of the 20 proposed bicycle parking spaces and clarify that they are the inverted-U style rack.
3. The Applicant revise Phase 1.2 of the Phasing Schedule to state, "Construct new parking area on the west side of the building"

**SECOND:** Commissioner Perkins.  
**VOTE:** 5-0.

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**J. PC15-109ZMA, Zoning Map Amendment, Summers Property**

Ms. Collard entered the entire staff report into the record. There was public comment on this item.

Gabrielle Dysalva of Golf View asked if the Planning Commission was going to discuss Mt. Philip Rd and the infrastructure problems. Commissioner McConnell replied that is part of the next application for Summers Property.

**Planning Commission Action:**

**MOTION:** Commissioner Perkins made a motion to not support a positive recommendation to the Mayor & Board of Aldermen for the rezoning of the property from MU-1 to R4 on the basis of a mistake. The argument presented in the application materials fail to provide evidence necessary to demonstrate that the underlying assumptions or premises relied upon by the legislative body during the 2013 Comprehensive Rezoning were incorrect.

**SECOND:** Commissioner McConnell.  
**VOTE:** 3-2. (Commissioner Nicklas & Commissioner Brown opposed).

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**K. PC09-064ANX, Annexation Amendment, Summers Property**

Ms. Collard entered the entire staff report into the record. There was public comment on this item.

Gabrielle Dysalva of Golf View stated that she has concerns regarding the infrastructure in this area and the impact it will have. She said that Mt. Philip Rd will need to be larger. Traffic is already an issue in that area and she feels sidewalks are needed to make it like a neighborhood.

**Planning Commission Action:**

**MOTION:** Commissioner Nicklas moved to continue PC09-64ANX, Summers Property to the August 10, 2015 Planning Commission hearing in order to have further discussion on the reduction of the non-residential land and on the infrastructure with conditions for what it means on the viability of development.

**DISCUSSION:** Alderman Russell stated is hesitant to talk about the viability of the development and thinks the commission needs more information for the potential of culvert crossing compared to a bridge or some other things with regards to infrastructure. Commissioner McConnell stated that the applicant bring forward potential conditions regarding the reduction of the non-residential component of the Mixed Use.

**SECOND:** Commissioner Perkins.

**VOTE:** 5-0.

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**Meeting adjourned approximately 11:06 p.m.**

Respectfully Submitted,

Carreanne Eyer  
Administrative Assistant

APPROVED 08-10-2015