

**Planning Commission Workshop
Project Summary**

Project Number	PC11-530FSU
Project Name	126/128 East 5th Street
PC Workshop Date	October 17, 2011

Proposal: The Applicant proposes to subdivide one lot into two lots, Lot1R and Lot 2R, of equal size that front East 5th Street, addressed 126-130.

Important Issues: By creating one additional lot, the property is subject to Section 608 of the LMC for parkland dedication. The subject property is located in the Historic District and Section 608(f)(4) is applicable as follows: *For those parcels located entirely within either the Carroll Creek Overlay District or the Frederick Historic District, National Register of Historic Places, the fee-in-lieu of parkland dedication is not applicable; instead, a fee of \$1,000 shall be applied to each new dwelling unit created in the development which will be used to fund parkland improvements within the defined area.*

In addition, Section 603 for Archeological Protection is applicable to the subject property per subsection (b)(3) which states that *"Building permits for ground disturbance in parcels containing inventoried archeological sites or within National Register or locally designated archeological or historic sites or districts."* Staff advised the Applicant to start the application process now so not to delay any building permit when submitted.

Per LMC Section 515, subdivision of any residential lot or tract of land that is a part of or surrounded by an existing residential platted and recorded subdivision must be of the same character as the existing lots using the seven (7) characteristics outlined in Section 515(a): street frontage, alignment, size, shape, width, area and suitability for residential use. Though the proposed smaller lots visually appear more comparable than the one original lot with the surrounding neighborhood, the Applicant has provided the required narrative for proof and documentation.

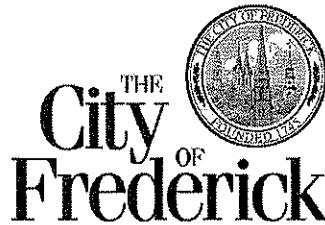
The Applicant must acquire and/or verify that they have full access easement rights from Chapel Alley across to the new subdivided lots in order to have on-site parking as required by LMC Section 507(a)(2) under *General Requirements for Subdivision of Land* in order to comply with Article 6 which includes parking Section 607.

The subdivision plat will be presented at the NAC 11 meeting on October 18 at 7:00 at the Bernard W. Brown Community Center.

Attachments:

- Final Plat
- Neighborhood Consistency Narrative

Randy McClement
Mayor



Aldermen

Karen Lewis Young
President Pro Tem

Michael C. O'Connor
Shelley M. Aloï
Carol L. Krimm
Kelly M. Russell

September 13, 2011

Mark Crissman
Daft McCune Walker Inc
8 E. Second Street, Suite 201
Frederick, MD 21701

Re: PC11-530FSU Final Plat: 126/128 East 5th Street (NAC #11)

Dear Mr. Crissman:

Staff has reviewed the above-referenced plan. Staff has divided comments into two sections: issues of major concern, and those that are of a technical nature. In order for this application to be in compliance, please address the following comments:

MAJOR CONCERN

1. Per Section 515 of the LMC lots on a preliminary or final subdivision plat for resubdivision of any residential lot, tract or other parcel of land that is a part of or surrounded by an existing residential subdivision recorded in a plat book, must be of the same character as other lots within the existing residential block with regards to the 7 characteristics outlined in Section 515(a). Staff finds that the proposed lots appear to be similar in nature to the surround community and will actually be more consistent with the community than what previously exists, however, a narrative must be provided with the resubmittal outlining consistency with each of the above noted criteria.
2. This resubdivision is subject to Section 608 of the LMC for parkland dedication. The property is within the National Register Historic District and as such, is required to pay \$1,000 for the newly created lot per Section 608(f)(4).
3. Per Section 603(b), archeological assessment is not required for the resubdivision of one infill into two; however, for any building permit for ground disturbance in the local or National Register historic district, an assessment is required. Staff highly recommends submitting the application at this time so at the time of building permit no further investigation is required.

4. If the existing easement L.4502 F.252 does not include Former Lot 1 as well as any heirs, assigns, etc. which would allow access for one additional lot, then a new access easement agreement should include access across all properties from Chapel Alley.
5. Although the previously recorded plat shows the existing 30' wide easement area (4502/262) as overlaying on the rear of the four lots which front E 5th Street, SDAT records show it as a separate parcel owned by the same owner of 129 E 4th Street, addressed as 413 Chapel Alley. Please verify which is correct. If this is a separate and distinct parcel, the property information should be labeled (owner, recording reference etc.) for that parcel as well and further information is needed as to how the subdivision occurred?
6. Label the proposed users for the proposed 30' wide ingress/egress easement on new Lots 1R and 2R. This easement will have to be recorded prior to plat recordation.
7. This project is exempt from the APFO ordinance since it is a residential project for less than 5 dwelling units. An APFO exemption form must be submitted. A note indicating that the plat is exempt from the APFO
8. NAC 11 meeting is scheduled for October 18, at 7:00, location at Bernard W. Brown Community Center.
9. Provide title report and change note #3 to reflect prepared with the benefit of a title report.
10. Address Engineering comments attached.
11. Verify the addresses of the properties; plat as 126-130 and application has 126-128.

TECHNICAL ISSUES

1. Add case number PC11-530FSU to plat title block.
2. Label East Fifth Street as local road classification.
3. Revise the title block, the previously recorded plat is at Plat book 74, Page 129 (as opposed to 139).
4. A note should be added to the plat indicating previous site history and any applicable case numbers including PC02-68FSU.
5. Change Front setback to zero.
6. There is no longer a street side setback, instead only "interior" setbacks which vary based on the use. For the construction of a duplex it is 3' on the exterior sides and for single family and two family dwelling units it is 3' on at least one side.

*****Important*****

Once **all** of the comments have been addressed, please submit 10 paper copies (**one of which is highlighted**) of the plat and a response letter addressing all agency comments. This office shall receive the resubmission, with all comments addressed, of this plan no

later than **October 10, 2011** to be placed on the **October 17, 2011** Planning Commission workshop agenda.

If you have any additional questions, please feel free to contact me at 301-600-1718 or if you prefer by electronic mail at preppert@cityoffrederick.com.

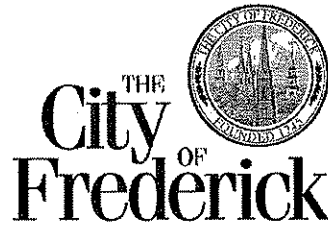
Sincerely,

A handwritten signature in black ink, appearing to read 'Pam Reppert', written in a cursive style.

Pam Reppert
City Planner

CC: Gabrielle Dunn, Division Manager of Current Planning

Randy McClement
Mayor



Aldermen

Karen Lewis Young
President Pro Tem

Michael C. O'Connor
Shelley M. Aloï
Carol L. Krimm
Kelly M. Russell

Date: **AUGUST 29, 2011:**

Engineering, Land Development and Traffic Comments

Re: PZ-11-00530: 126/128 East 5th Street

The Engineering Department requests a point-by-point response letter to the following comments. Please include the original comments in your point-by-point resubmittal.

1. Provide traffic data in accordance with LMC Section 1203.
2. Water and sewer note needs to be updated. "The Allocation of Water and Wastewater Treatment Capacity for the development of the property depicted on this plat will be made in accordance with Chapter 25, Article IX of the Code of The City of Frederick, 1966 (As amended). Allocation of water and wastewater treatment capacity is generally made at the time of Building Permit application. Subject to the availability of such capacity and the payment of all required fees.
3. Show existing and proposed (if any) water and sewer lines.
4. In accordance with Land Management Code, street frontage improvements, including but not limited to curb & gutter, street trees, street lights and sidewalk, will be required.
5. Any curb cuts and/or driveway aprons must be approved by the Engineering Department and meet current City specifications.

Reviewed by Wright, Hahn, Walzl, Kershner. Entered 8/29/11 by sstamper.

**Planning Commission Workshop
Project Summary**

Project Number	PC10-280FSI
Project Name	Clemson Corner Site Plan Revision
PC Workshop Date	October 17, 2011

Proposal: The Applicant has proposed a revision to the previously approved final site plan PC10-280FSI to expand the footprint of the two one-story retail buildings closest at the entrance to the shopping center. Currently the eastern building is 6,275 s.f. and the western building is 9,093 s.f. and they are connected by a patio breezeway. The proposal will eliminate the breezeway and combine the buildings into a single 16,368 s.f. building. The original approval of the project (PC09-25FSI) planned for a three-story 49,840 s.f. retail/office. The current proposal is well within the limits of the original approval with the only substantial considerations being the changes in architecture.

Important Issues: The Applicant has provided a new architectural elevation for Planning Commission review and approval. However, no narrative has been provided at this time as required to demonstrate compliance with §863, Table 863-2, which requires the Applicant to conform to six (6) mandatory standards and three (3) optional standards of design. This information will be presented to the Commission with the materials for the hearing.

**Planning Commission Workshop
Project Summary**

Project Number	PC11-493PND PC11-494PSU PC11-496FSI
Project Name	Worman's Mill PND Master Plan, Preliminary Subdivision Plat, and Village Center Final Site Plan
PC Workshop Date	October 17, 2011

Proposal: The Applicant is requesting approval of a revision to the Worman's Mill Village Center final site plan. The previously approved Town Center (PC07-345FSI) comprised of 92 multi-family units and 64,671 s.f. of commercial space. Parcel A, Block H depicted on the proposed plan was originally proposed for 30 townhouse units, however with the approval of PC07-345FSI, it was left undeveloped and subject to future site plan approval.

The revised plan is almost a complete redesign of the layout from the previously approved final site plan. The proposed plan includes the 171 multi-family units, 43,869 s.f. of shopping center space, and a 36-bed domiciliary care facility. The domiciliary care facility is to be located on the formerly vacant Parcel A, Block H. Additionally, as part of this plan, the Applicant has requested the partial vacation of the Merchant Street right-of-way in order to accommodate the layout as proposed.

The revision to the final site plan will also require revisions to the PND master plan, the preliminary subdivision plat, and forest conservation plan as the proposed increase in residential units within the Village Center will require the transfer of units from other sections of the PND.

Staff has brought these cases forward for informational purposes and so that the Applicant can receive feedback from the Commission on several major items that will impact the design of the project. These cases will be scheduled for a future workshop prior to going before the Planning Commission for action.

Important Issues:

Density/Intensity

The Applicant has proposed an increase in the residential density within the Village Center beyond what was previously approved. As noted above, the previously approved master plan was approved for 122 dwelling units within the Town Center. Prior to that, the approved plans showed 94 units not including Parcel A, Block H. The new plans propose 171 units, not including the domiciliary care facility which is not considered "residential" for density purposes. The Applicant is not proposing a change to the maximum density permitted for the PND as a whole, which is 1,497, but instead will achieve this increase the density of the Village Center, by transferring 49 residential units from other sections within the PND to the Village Center.

While the overall density of the entire PND has not changed, the concentration of density within the Village Center has increased from the previously approved plans. Staff has

attempted to calculate the change in density from the previous master plan approvals as consistently as possible in order to make a meaningful comparison.

The residential density proposed within the Village Center is noted as 20.02 units/acre; however, this includes the private park parcel in the land use calculation. A 1999 version of the approved plan noted the density as 16.77 excluding the 1.2 acre private park, the 0.99 acre parcel on Parish Lane (Parcel A, Block H), and the right-of-way of Village Square Road and Merchant Street- which have been and/or are proposed for abandonment. Accordingly, for comparison, staff has also calculated the new proposed density excluding the 0.55 acres of private parkland but including the proposed vacated right of way and Parcel A, Block H which are to be developed. This results in a density of 21.40 units/ acre. The revision to the master plan (PC07-343PND) approved on December 10, 2007 showed a density of 15.48, including the 30 townhouse units and the vacated Village Square Road, or a density of 17.68 when extracting the 0.98 acre private park.

In addition to the consideration of the overall density, Section 16.10(5) of the 1986 Zoning Ordinance states that required lot areas, widths, and yards per Section 4.03 may be reduced within a PND at the discretion of the Planning Commission. Multi-family in the R4 district was permitted provided that the minimum lot area per dwelling unit was equal to 3,630 square feet. With the 2007 revision, the residential components on Block J and I were approved for less square footage/unit at rates of approximately 1,939 square feet/unit and 2,400 square feet/unit, respectively. With the subject revisions, the number of units on these blocks has decreased keeping it within the previous thresholds. The proposed multifamily building, which is being changed with this review, has 110 units on 3.9 acres resulting in 1,544 square feet/dwelling unit. The Planning Commission must consider the proposed density at this rate.

With regards to the intensity of the commercial portion of the development, the commercial square footage has been reduced from 64,671 s.f. under the approved final site plan (PC07-345FSI) to 43,869 s.f. under the proposed plan, with the most notable amendment being the elimination of the 9,000 square foot restaurant space which elicited a substantial amount of concern from the community with regards to potential impacts.

Vacation of Merchant Street

In order to accomplish the proposed design the Applicant has requested the vacation of a portion of Merchant Street as indicated on the plan. The request must be processed through the Streets and Sanitation Committee and the Planning Commission for recommendation to the Mayor and Board of Aldermen. The Mayor and Board of Aldermen are the approval body for the request per Section 22-22.2 of the City Code.

City staff is not supportive of the vacation of the Merchant Street right of way as currently shown on the site plan due to the lack of available public right-of-way to accommodate a turnaround for vehicles at the dead-end and anticipated operational issues such as providing services like trash collection and snow removal. However, the Applicant has taken staff's comments under consideration and has submitted a revised design for consideration by the Streets and Sanitation Committee that should accommodate the required City services through the use of a cul-de-sac at the terminus of the remainder of the Merchant Street right-of-way.

From a planning perspective, Staff has several concerns which are more comprehensive in nature. In requesting abandonment, one is asking that the City abdicate its interest, liability and responsibility in that right of way. In essence, this requires the Planning Commission and Mayor and Board to consider the public function that the right of way serves. Unlike a right of way which was dedicated but never constructed or one that provides extremely limited service, Merchant Street was designed as an integral connection in the grid-like road pattern of the town center portion of this contemporary planned community. The abandonment of Merchant Street as proposed will result in a dead end street with a cul-de-sac that is approximately 330' linear feet in length. Both the 1986 Zoning Ordinance and 2005 LMC show preference for "through streets" versus dead end systems on the basis of connectivity and access management. It can be contended that the current "through movement" of this road serves a valuable public purpose in ensuring adequate access to the homes on Merchant Street and beyond.

However, as noted above, Section 22-22.2 does not provide any specific criteria or limitations under the circumstances in which a street can be abandoned. Staff would note that this request is somewhat unique in that the portions of the community surrounding the abandonment have been slated to be developed since the master plan approval. The impetus for the Applicant's request is the pending application for the Village Center which utilizes a portion of the Merchant Street right of way for surface parking and new construction. Without the abandonment of the road as requested, the proposed design is not possible. Staff and the Applicant have continued to work on the design of the roadway to ensure adequate emergency vehicle access from Mill Pond Road to the existing residences on Merchant Street through the developed lot and to ensure that the proposed cul-de-sac at the new terminus of Merchant Street will afford the City the ability to service the existing residences with snow removal and trash pickup.

Architectural Elevations

Architectural elevations are required to be provided as part of the final site plan review within the PND, but they were not provided with the first submission. Staff has not reviewed or formulated any comments for the Planning Commission's consideration at this time.

**Planning Commission Workshop
Project Summary**

Project Number	PZ-11-00620
Project Name	Hill Street Park-Monopole
PC Workshop Date	October 17, 2011

Proposal:

The City is working collaboratively with Frederick County to upgrade the County's emergency communications facilities in order to enhance radio communication for County and City emergency responders. As part of the coordinated effort, the County is proposing a 190' communications monopole with 5' lighting rod in the southwest corner of Hill Street Park.

Important Issues:

The proposed monopole was initially reviewed by the Zoning Board of Appeals on June 28, 2011 under Section 866 of the Land Management Code (LMC), *Telecommunications Facilities*. Per Section 866, telecommunications facilities are a conditional use in the GC, PB, MO, M1, M2 MU, MXE, PRK, and IST districts. The subject property, Hill Street Park, is a City owned and operated park zoned PRK. As such, Staff advised the Applicants that a conditional use approval was required in accordance with this section. The application was reviewed, however, was denied by the Board in accordance with subsection 866(a)(12) on the basis that the visual profile and appearance of the monopole would have a substantial change in the character of the area.

Subsequent to the Board's denial and upon closer examination, Staff has found that the proposed application is not subject to Section 866 but instead is considered an *essential service* per Section 1002 and is therefore subject to Section 852, *Public Utilities/Essential Services* as opposed to Section 866. An essential services is one that is defined as

"All those facilities wherever located which are erected, constructed, altered or maintained as part of an integrated system or program which is designed and used to furnish services reasonably necessary to the health, safety, or convenience of the public. Such public systems include water, electric, gas, communication, steam or sewer lines and all facilities, which are necessary parts of those systems. Such facilities include wires, poles, towers, pipes, alarm or emergency devices, traffic signals, fire hydrants, or similar apparatus as are used to provide a public service. An essential service may be provided by public utilities, local governments, or other competent parties. Structures or land used for storage, repair or processing of equipment or material; or substations for transforming, boosting, or switching purposes which are located at or above ground level, are not included in this definition and shall be subject to Planning Commission site plan review."

Section 852 states, "public utilities and other essential services are permitted in any district provided that plans for such facilities which are above ground are submitted to the Commission for review and that the recommendations of the Commission are followed and further provided that, when such above ground facilities are proposed in a DR or R district, the Commission finds that no feasible alternative location in another district is available."

In analyzing this subsection, Staff makes the following findings:

1. "Commission" as defined in Section 1002, is the Planning Commission unless otherwise noted, for example in Section 423, it is specified that "the Commission" refers to the Historic Preservation Commission.
2. The Planning Commission has the ability to make recommendations that must be followed but in no instance should the recommendations render the proposal infeasible. For example, a recommendation regarding the screening or lighting of the monopole is appropriate however, a recommendation of limiting its height to 10' which would no longer allow it to serve its purpose, would not be appropriate.
3. The proposed monopole is not within the DR or R district and as such, the Commission does not have to make a finding that no other feasible alternative location is available.

While the criteria established under Section 866 is not applicable to this request, Staff does find that those criteria are helpful in assisting the Planning Commission in making meaningful recommendations that reflect the standards that would be applicable to a similarly structured facility but one that does not provide a public service. As such, Staff has attached the June 28th staff report presented to the ZBA.

Essential Services

All those facilities wherever located which are erected, constructed, altered or maintained as part of an integrated system or program which is designed and used to furnish services reasonably necessary to the health, safety, or convenience of the public. Such public systems include water, electric, gas, communication, steam or sewer lines and all facilities, which are necessary parts of those systems. Such facilities include wires, poles, towers, pipes, alarm or emergency devices, traffic signals, fire hydrants, or similar apparatus as are used to provide a public service. An essential service may be provided by public utilities, local governments, or other competent parties. Structures or land used for storage, repair or processing of equipment or material; or substations for transforming, boosting, or switching purposes which are located at or above ground level, are not included in this definition and shall be subject to Planning Commission site plan review.

Exemption

Those land development activities that are not subject to the stormwater management or the erosion and sediment control requirements contained in this Code.

Extended Detention

A storm water design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPS are specified in the Design Manual.

Exterior Feature

The architectural style, design, and general arrangement of the exterior of an historic structure, including but not limited to the nature and texture of building material, and the type and style of all windows, doors, stoops, light fixtures, signs, or similar items found on or related to the exterior of an historic structure. (Reference: Historic Frederick District regulations, § 423 of this Code.)

Sec. 850 PARKING LOT, COMMERCIAL

A private commercial parking lot or structure is permitted as a conditional use in the DBO district provided that all of the following conditions and requirements can be met:

- (a) Single level structures or lots providing more than four (4) spaces must have a driveway access to an alley or a street that is approved by the City Engineer.
- (b) Maximum height of a multi-level parking structure is forty (40) feet or three (3) levels, whichever is less.

Sec. 851 RESERVED

Sec. 852 PUBLIC UTILITIES/ESSENTIAL SERVICES

Public utilities and other essential services are permitted in any district provided that plans for any such facilities which are above ground are submitted to the Commission for review, and that the recommendations of the Commission are followed, and further provided that, when such above ground facilities are proposed in a DR or R district, the Commission finds that no feasible alternative location in another district is available.