

Planning Commission Hearing Minutes
DATE: July 9, 2018

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Barbara Nicklas – Chair	Katie Isaac	Gabrielle Collard, Division Manager of Current Planning
Arlene Perkins – Vice Chair		Cherian Eapen, Traffic Engineer
Kelly Russell – Alderman & Secretary		Scott Waxter, Assistant City Attorney
Ron Burns		Marshall Brown, City Planner
Alan Imhoff – Alternate		Tierre Butler, City Planner
		Christina Martinkosky, HPC Planner
		Jessica Murphy, Administrative Assistant

I. ANNOUNCEMENTS:

Ms. Collard made the following announcements about upcoming events and opportunities:

- The Workshop Agenda with attachments are available online for the workshop scheduled for Monday July 16, 2018 at 2pm in the Municipal Annex Building.

II. APPROVAL OF MINUTES:

Approval of the **June 11, 2018** Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Perkins

SECOND: Commissioner Imhoff

VOTE: 5-0.

Approval of the **June 16, 2018** Planning Commission Workshop Minutes as amended:

MOTION: Commissioner Perkins

SECOND: Commissioner Imhoff

VOTE: 5-0.

Approval of the **July 6, 2018** Pre-Planning Commission Minutes as amended:

MOTION: Commissioner Perkins

SECOND: Alderman Russell

VOTE: 5-0.

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”.

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.)

V. CONTINUANCES:

A. PC15-701ZTA, Text Amendment, Section 404, Table 404-1 Medical Cannabis

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve a continuance to the August 13, 2018 Planning Commission meeting.

SECOND: Commissioner Imhoff

VOTE: 5-0

B. PC18-475PFCP, Preliminary Forest Conservation Plan, Rock Creek Stream Restoration

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve a continuance to the August 13, 2018 Planning Commission meeting.

SECOND: Commissioner Imhoff

VOTE: 5-0

VI. OLD BUSINESS:

C. PC17-993PND, Master Plan, Free and Medwid

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

Caroline McAllister of 1089 Rocky Springs Rd. who represents KPG Realty advised she has the residence east of the Rocky Springs Cemetery. Ms. McAllister advised she has concerns with the Shared Use Path with motorist, pedestrian and bicycle safety. Ms. McAllister recommends that the bike path go behind the townhomes which would be away from the cemetery. She would also like to see a common area instead of the 7 townhomes being proposed in one spot. She also has drainage and sinkhole concerns, as they have had a sinkhole problem in the past. Ms. McAllister wants the cemetery to be protected for the historic value. She also showed the Planning Commission a video of a funeral taking place at the cemetery to demonstrate the parking and circulation needs.

Kevin Slagle of 2022 Rosemont Avenue had questions about the process of the development and what would be approved at Master Plan. He is also concerned about the amount of townhomes that will be approved.

Mark Baugher of 8608 Wiles Ct. in Middletown, President of the Rocky Springs Cemetery advised that they just want to protect the cemetery and have it operate as it has. He advised the cemetery board members had a meeting the night before hearing to discuss the changes and to take a vote on moving the shared use path to a new location. Mr. Baugher is concerned about the safety of the cemetery and would like to see the shared use path moved. He states that the fence proposed by the developer isn't exactly what they are looking for. Mr. Baugher also made a personal statement, he advised that his family is buried there and right now the cemetery is surrounded by the country with a view of the mountains. He advised with the development you won't be able to enjoy the scenery and wishes there was another use for the land.

Sue Slagle of 2022 Rosemont Avenue is concerned about that the project is not a PND and that it is just an extension of another PND. She advised that it's not a natural extension of the current PND and does not complete the puzzle to have the whole property filled in with townhomes. She advised the project is too dense for the area and does not blend well.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve the modifications to the R4 dimensional standards of Section 405, Table 405-1 of the LMC as documented in the staff report finding that the proposal complies with the provisions of Section 410(e) for Planned Neighborhood Developments (PNDs) and finding that the modifications contribute to the preservation of open space and sensitive areas and that the resulting development is compatible with adjacent land uses that are not part of the PND.

SECOND: Commissioner Perkins

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve a modification to Section 607(g)(1) of the LMC for the required 10' setback of parking facilities from public right of ways in order to accommodate for the two-lane street section with perpendicular parking finding that the design is compatible with properties not a part of the development and that the modification will not impede safety or the provision of public services.

SECOND: Commissioner Perkins

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve a modification to Section 803(g)(1) of the LMC to allow driveways to exceed 30% of the actual front yard of the townhouse lots, based on the following findings in accordance with Section 410 of the LMC:

- A. The distance between the principal structure and the accessory structure is at least six feet;
- B. The distance between the structure and a public right of way is at least six feet; and
- C. The structure is not located within the sight distance triangle as described in Section 611 of this Code.

SECOND: Commissioner Perkins

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve of a modification to City Standard Detail ST-11.0 concerning modified street sections, based on the following findings in accordance with Section 410(g)(3) of the LMC:

- 1. That the street section is compatible with surrounding neighborhood;
- 2. That the street section is compatible with the overall development of the City;
- 3. That the street section will not be detrimental to public health and safety or to the delivery of public services to the future residents of the PND, including police, fire protection, emergency services, utilities, solid waste collection, and schools; and
- 4. That street trees will be placed behind the sidewalk on private property as a mitigation measure to account for the reduced right of way width.

SECOND: Commissioner Perkins

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve a modification to the Standard City Detail Manual to use a two-lane street section with perpendicular parking based on the following findings in accordance with Section 410(g)(3) of the LMC:

- 1. That the street section is compatible with the surrounding neighborhood;
- 2. That the street section is compatible with the overall development of the City;

3. That the street section will not be detrimental to public health and safety or to the delivery of public services to the future residents of the PND, including police, fire protection, emergency services, utilities, solid waste collection, and schools; and
4. That mitigation measures will be incorporated into the design that resolve any potential issues and address the purpose of the regulations that are subject to modification.

SECOND: Commissioner Burns

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve the Free and Medwid Master Plan, PC17-993PND, finding that in accordance with Section 410, the development will constitute a primarily residential environment of continuing desirability and stability, in reasonable harmony with the character of the surrounding neighborhood and that the standard of development is of equal or higher quality than that which occurs pursuant to the R4 district and in accordance with Article 3 of the LMC, Section 310, entitled *Master Plans*, with the following conditions:

1. Revise the Street Standard detail for the Two-Lane Street with Perpendicular Parking in the Design Guideline booklet as follows:
 - a. To show parking sloped a maximum of 5%, minimum of 2% toward the public right of way.
 - b. To include a 2' wide concrete gutter pan/swale along the flow line to better convey stormwater to storm drain structures and to delineate public ownership vs. private ownership of paved areas.
 - c. To include a 1' grass strip be back of sidewalk and property line to allow for the installation of sewer cleanouts and water curb stops.
 - d. To include a footnote reading, "Water mains, sanitary sewer mains, and storm drain systems must be in the public right of way and storm drain inlet structures should be at the end of islands separating parking bays. Easements will be required for all water and sewer service connections placed in the parking bays."
 - e. To include a footnote reading, "Final street details are subject to review and approval by City Engineering at the time of preliminary/final site plan approval."
2. Revise the Street Standard detail for the Two-Lane Street without Parking in the Design Guideline booklet to include a footnote which states that a street tree easement will be established on private lots for the planting and maintenance of street trees in accordance with Section 605 of the LMC.
3. That a note be added to the Master Plan stating, "Detailed specifications for landscaping and fencing to be provided by the Applicant surrounding the Rocky Springs Cemetery will be reviewed and approved at the time of site plan or preliminary plat/final site plan if a combined plan is submitted."
4. Execute the MPDU Payment Agreement and revise note #9 on the master plan to indicate the recording reference of that document.
5. Revise Note #25 to indicate the date of approval for the APFO certificate for roads (CAPF-R).
6. Revise Note #29 to either eliminate the reference to the modification to the amount of floodplain permitted within parkland dedication or indicate that this modification is subject to

approval at the time of preliminary plat.

7. Revise Traffic Impact Analysis to address outstanding technical comments per the City Traffic Engineer.

SECOND: Commissioner Perkins

VOTE: 5-0

D. PC18-246ZMA, Zoning Map Amendment, 10 N. Carroll Street

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

Nancy Green with Macintosh Realtors commented she sold the property to the Berkowitz's and she is the listing agent on the property now trying to sell it and has hopes that the zoning will be fixed. This is the first time Ms. Green has seen this issue and advised it's difficult to have to explain to clients that this can happen and isn't good for business. Ms. Green advised this is a mistake that needs corrected.

Joan Berkowitz property owner of 10 N. Carroll Street advised she is in support of the application and wanted the Planning Commission to know the impact this has had on her. She advised the process has delayed her from selling her property and she has lost offers due to the mistake in zoning. She had had to hire an attorney and has had to close her business multiple times to attend meetings. Ms. Berkowitz stated that all of this has created a lot of stress for her.

Irene Kirilloff of 204 E. Church Street feels that the zoning should be changed because the property should be commercial; however, feels that it should be DBO, not DB. She asks the Planning Commission to recommend denial of the application.

Bob Cassidy of 228 E. Church St. would like the property zoned DBO and has concerns about noise and parking. He asks the Planning Commission to recommend denial of the application.

Sharon K. Suarez of 234 1/2 E. Church St. advised the property should not be zoned DB and agrees with the DR zone and that there needs to be a more comprehensive look at zoning. She asks the Planning Commission to recommend denial of the application and advises this is out of sync with the comprehensive plan.

Bruce Dean with Linowes & Blocher spoke for the owner of 10 N. Carroll and advised they are in support of the application. Mr. Dean advised that the zoning was a mapping error made in 2005 which would make it a pure mistake. He advised the property has always been a commercial property and with the City being the applicant on the project it shows there was an error and the zoning shouldn't have been changed. Mr. Dean advised the property owner was never notified of the change in zoning as she should have been notified. He advised the mistake should and can be corrected.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to send a positive recommendation to the Mayor and Board of Aldermen for the rezoning of 10 N. Carroll Street from Downtown Residential (DR) within the Historic Preservation Overlay (HPO) to Downtown Commercial Residential (DB) within the HPO, based on the following findings of fact:

- A. That the potential residential density under the DB district remains consistent with the exception of multifamily construction, which could result in an increased density beyond that allowed under the current zoning.
- B. That that site is located in the center-city and is served by existing public facilities including water, sewer, roads as well as life safety and emergency services.
- C. That due to the constrained nature of the downtown, major future road improvements are not practical and therefore, present and future transportation patterns will be more heavily focused in these areas increased pedestrian, bicycle, and transit accessibility. The DB zoning district will allow a greater variety of land uses to contribute to an environment that will support these alternative modes of transportation.
- D. That rezoning to DB is compatible with surrounding densely developed residential uses as well as nonresidential uses; and
- E. That the rezoning is consistent with the land use map of the 2010 Comprehensive Plan, which designates this area as mixed use and is also consistent with the narrative of the Comprehensive Plan in supporting Land Use Policies 1 and 3 and the implementation strategies incorporated therein.

And on the basis that a mistake was made during the 2005 Comprehensive Rezoning when the Property was rezoned from DB to DR, thereafter reaffirmed in the 2013 Comprehensive Rezoning, where action was taken that rendered the historically nonresidential use nonconforming with no evidence of a request by the property owner to do so and no other evidence of an expressed intent to render the property nonconforming

SECOND: Alderman Russell

VOTE: 3-2 (Commissioner Burns and Commissioner Imhoff opposed).

E. PC18-245ZMA, Zoning Map Amendment, Westside Regional Park

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to send a positive recommendation to the Mayor and Board of Aldermen for the rezoning of the remaining 99 acres of the Westside Regional Park from Low Density Residential, R4, to Open Space (PRK) while maintaining the Highway Noise Overlay (HNO), based on the following findings of fact:

- A. That the rezoning will prohibit the development of the Property for residential purposes, thereby precluding any residential population increase.
- B. That the future use of the Property in accordance with the PRK zone will be served by existing public infrastructure including, roads, water and sewer lines as well as life safety and emergency services and further, the creation of a public park will contribute to new public facilities for residents throughout the City.
- C. That development of the Property in accordance with the PRK zone will include public road improvements that will contribute to planned transportation improvements in the area.

- D. The rezoning of the Property to facilitate the completion of a regional park is compatible with the existing and planned development in the area; and
- E. That the rezoning is consistent with the land use map of the 2010 Comprehensive Plan, which designates the Property for recreational use and is also consistent with the narrative of the Comprehensive Plan in supporting Recreation Element Policy 5.

And on the basis that proposed use of a regional park is consistent with the purpose and intent of the PRK floating zone as established in Section 401, Table 401-1.

SECOND: Commissioner Imhoff

VOTE: 5-0

VII. NEW BUSINESS:

F. PC18-66FSI, Final Site Plan, West End Plaza

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve the modification to Section 605 to waive the Level I screening requirement finding that:

- a. The modification will not be contrary to the purpose and intent of the code because the retaining wall will assist to create a buffer between the GC properties.
- b. The modification is consistent with the 2010 Comprehensive Plan and enhances neighborhood character.
- c. The application includes compensating design or architectural features so as to meet overall objectives of the particular requirement with the inclusion of the retaining wall creating a physical barrier.

SECOND: Commissioner Perkins

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Imhoff moved to approve the Final Site Plan, PC18-66FSI, to construct a 13,390sqft grocery store, parking lot and associated on-site improvements based on compliance with all of the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC and consistency with the 2010 Comprehensive Plan with the following conditions:

1. Final Plat STF18-67FSU to consolidate lots 1 and 2 must be recorded.
2. Revise Note J(4) regarding the CAPF-R to indicate that prior to building permit issuance, the Applicant will remit a pro rata share contribution in the amount of \$6,805.00 towards a traffic signal at US Route 40 and Old Camp/Butterfly Lane (CIP Project #340401).

3. Revise, resubmit, and receive approval of the traffic impact study in accordance with the letter dated June 29, 2018 from the city's traffic engineer.

SECOND: Commissioner Perkins

VOTE: 5-0

G. PC18-375FSI, Final Site Plan, Butterfly Lane Water Tank

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve a of the modification to Section 601 to allow a separation distance of 69ft between driveways on an arterial road finding that:

- a. The modification will not be contrary to the purpose and intent of the Code because the use will generate a low volume of traffic;
- b. The modification is consistent with the 2010 Comprehensive Plan in that it does not compromise the capacity of Butterfly Lane as an arterial roadway due to the low volume of traffic.
- c. The application includes compensating design or architectural features so as to meet overall objectives of the particular requirement because it includes limited access.

SECOND: Alderman Russell

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve a fence modification to Section 821 to allow an 8ft chain link fence with 2ft of barbed wire finding that:

1. The modification will not be contrary to the purpose and intent of the Code as landscaping is provided to visually obscure the fencing in a way that makes it more consistent with the surrounding community.
2. The modification is consistent with the 2010 Comprehensive Plan and does not adversely impact the use of other properties.
3. The landscaping proposed constitutes a compensating design feature so as to meet overall objectives of the particular requirement.
4. The guidelines of the public health, security and bioterrorism preparedness and response act of 2002 was taken into account and all City water tanks are surrounded by similar fences as a deterrent to possible threats of attempting to enter the facility.

SECOND: Commissioner Imhoff

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Burns moved for conditional approval of the Final Site Plan, PC18-375FSI, to construct an elevated water storage tank with an access road and a small parking lot within the Westside Regional Park based on compliance with all of the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC and consistency with the 2010 Comprehensive Plan.

1. Revise Note #6 under Major Site Plan General Notes to indicate the date of the modification approvals by the Commission.

SECOND: Commissioner Perkins

VOTE: 5-0

H. PC18-265FSI, Final Site Plan, Worman's Mill Assisted Living

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Burns moved to approve a modification to the building setback requirements of Section 4.3 finding that the request is consistent with the master plan and the previously approved modification as well as the purpose and intent of the PND regulations of the 1986 Zoning Ordinance.

Approval of a modification to the access separation requirements of Sec. 13.03.1 for the access points along Waterside Drive and Village Square Road as shown on the plan as permitted under 13.03.2 finding that the request is consistent with the master plan and the previously approved modification as well as the purpose and intent of the PND regulations of the 1986 Zoning Ordinance.

Approval of a modification as permitted under Section 16.10.9 to permit on street parking to be utilized to satisfy required onsite parking finding that the request is consistent with the master plan and the previously approved modification as well as the purpose and intent of the PND regulations of the 1986 Zoning Ordinance.

Approval of a modification to the required parking lot setback under Sec. 14.09 to allow for a 4' setback as permitted under 16.10.5 finding that the request is consistent with the master plan and the previously approved modification as well as the purpose and intent of the PND regulations of the 1986 Zoning Ordinance.

Approval of a modification to Section 7.05 for permitted encroachments into the required yards finding that the request is consistent with the master plan and the previously approved modification as well as the purpose and intent of the PND regulations of the 1986 Zoning Ordinance.

SECOND: Commissioner Imhoff

VOTE: 5-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Burns moved to approve the final site plan PC18-265FSI for revisions to the assisted living facility component of the Worman's Mill Village Center finding that the plan is consistent with the previously approved master plan and Section 16 of the 1986 Zoning Ordinance with the following conditions:

- 1) Add STF15-113FSI to Note #8 on Sheet FSP-1 regarding previous approvals.
- 2) Receive approval from the City Engineering Department for the updated water demand and wastewater flow information.

SECOND: Commissioner Imhoff

VOTE: 5-0

I. PC18-409ZMA, Zoning Map Amendment, 401 Linden Avenue

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

Anne Rollins with Miles and Stockbridge who represents the owner of the property Brent Cramer and Herman & Kittle. Ms. Rollins disagrees with the theory the home was a cure cottage and advised they were not common to the area. She advised that the property doesn't fit the criteria for the HPO designation being put on the property and opposes the application.

Anthony Moscato who resides in Myersville, MD and is the Chair of the Frederick Preservation Trust, an organization that advocates on behalf of historic preservation related matters in the City of Frederick. He advised the Cramer house is one with a unique historic heritage that also contributes to the City's heritage as a prefabricated Hodgson house. Mr. Moscato urged the Commission to send a positive recommendation to the Mayor & Board to preserve the Cramer house by putting an Historic Preservation Overlay on the property.

Scott Winnette who resides in Myersville, MD and represent the Frederick County Landmark foundation and encouraged the Planning Commission to provide a favorable resolution to the Mayor & Board that the property be protected with an Historic Preservation Overlay for the importance of the property as a Hodgson house and the use as a Tuberculosis cure cottage.

Scott Foreman of 501 Linden Avenue. He advised that he submitted an email to the Commission and that the property speaks for itself.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to send a positive recommendation to the Mayor & Board of Aldermen for the rezoning of 401 Linden Avenue in order to apply the Historic Preservation Overlay (HPO) zone while maintaining the R6 (Low Density Residential) base zoning on the house parcel.

SECOND: Commissioner Burns

VOTE: 4-0 (Commissioner Imhoff abstained)

J. PC-18-511ZTA, Zoning Text Amendment, Section 301, General Procedural Requirements

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to send a positive recommendation to the Mayor & Board of Aldermen for the proposed amendments to Section 301 of the Land Management Code as contained in the draft ordinance finding that the amendments implement policies of the 2010 Comprehensive Plan and that the changes are consistent with the existing regulations.

SECOND: Commissioner Perkins

VOTE: 5-0

Meeting approximately adjourned at 9:30 pm

Respectfully Submitted,

Jessica Murphy
Administrative Assistant

APPROVED 8/13/2018