

**Planning Commission Hearing Minutes
November 14, 2011**

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash Alderman Russell Elisabeth Fetting Gary Brooks Rick Stup	Josh Bokee	Gabrielle Dunn-Division Manager of Current Planning Joe Adkins-Deputy Director for Planning Jeff Love-City Planner Pam Reppert-City Planner Devon Hahn-City Traffic Engineer Scott Waxter-Asst. City Attorney Carreanne Eyler-Administrative Assistant

I. ANNOUNCEMENTS:

Commissioner Stup updated the Commission on the planning conference he attended November 9th & 10th.

II. APPROVAL OF MINUTES:

Approval of the **October 10, 2011** Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Stup.

VOTE: 5-0.

Approval of the **October 17, 2011** Planning Commission Workshop Minutes as amended:

MOTION: Commissioner Stup.

SECOND: Commissioner Fetting.

VOTE: 4-1. (Commissioner Brooks abstained.)

Approval of the **November 10, 2011** Pre-Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Fetting.

VOTE: 4-1. (Commissioner Stup 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.)

V. NEW BUSINESS:

C. PC11-603 Merchant Street-Right of Way Abandonment Request

PLANNING COMMISSION ACTION:

MOTION: Commissioner Brooks made a motion to continue PC11-603 for 30 days to the December 12, 2011 Planning Commission Hearing.

SECOND: Commissioner Stup.

DISCUSSION: Alderman Russell stated that she wanted it noted in the record that she and Alderman O'Connor had met three different times with residents and the applicant regarding this outside of the Planning Commission.

VOTE: 5-0.

A. PC11-530FSU-Final Subdivision Plat-E. 5th Street- Lots 1R & 2R

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the Applicant proposes to subdivide one lot into two lots, Lot1R and Lot 2R, of equal size that front East 5th Street and are addressed 126-130 E 5th Street.

INITIAL PLANNING STAFF RECOMMENDATION:

Based on the information provided by the Applicant for Section 515 requirements for neighborhood consistency and all other applicable regulations, Staff recommended conditional approval of Final Plat PC11-530FSU for Lots 1R and 2R with the following conditions

To be met in less than 60 days:

1. Show existing depressed curb eliminated and replace the street frontage with standard curb and sidewalk along the front of Lots 1R and 2R.
2. All required access easements must be recorded prior to plat recordation and the recording references must be added to the plat.
3. Add the following note on the plat: Prior to building permit issuance for the homes on Lot 1R and 2R, an archeological assessment must be conducted in accordance with LMC Section 603.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no Planning Commission questioning of staff.

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

Mr. Mark Crissman, DMW, Inc. 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:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Stup moved to approve PC11-530FSU with the three conditions to be met in less than 60 days and as read into the record by staff.

SECOND: Commissioner Brooks.

VOTE: 5-0.

B. PC11-636FSI-Final Site Plan-Clemson Corner

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting approval for revisions to the previously approved final site plan and architectural elevations for the Clemson Corner shopping center located north of Route 26 and west of Wormans Mill Road.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended unconditional approval of final site plan PC11-636FSI as well as the associated revisions to the architectural elevations.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

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

Mr. Jim Castillo, Faison, and Bruce Dean, Linowes & Blocher, 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:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION ARCHITECTURAL ELEVATIONS:

MOTION: Commissioner Stup moved to approve the architectural elevations as presented for PC11-636.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION PC11-636FSI:

MOTION: Commissioner Stup moved to approve PC11-636FSI as read into the record by staff.

SECOND: Commissioner Brooks.

VOTE: 5-0.

D. PC11-620FSI-Final Site Plan-Frederick County Emergency Management-Hill Street Monopole

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mrs. Dunn entered the entire staff report into the record. She stated that in a collaborative effort to upgrade the emergency communications infrastructure serving the City and County, the City of Frederick Police Department and the County Division of Emergency Management are requesting recommendations from the Planning Commission on the construction of a 190' communications monopole and accessory equipment shelter in the southwest corner of Hill Street Park.

INITIAL PLANNING STAFF RECOMMENDATION:

After reviewing the proposal and the criteria established in Section 852, there are no recommendations that Staff deems necessary.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Brooks asked what the actual height of the monopole?

Mrs. Dunn replied that it is 190' with a 5' lightning rod.

Commissioner Nash asked if there is any requirement to have a clearance of 190' all around the area.

Mrs. Dunn stated there is not under the essential services provision, however, under telecommunications provisions of the LMC there is a requirement that the applicant had to document that they complied with as part of their ZBA review. The criterion is that the structure itself not be closer to a property line than its fall zone.

Commissioner Nash asked if there has been any discussion of the chain link fence being the green coated wire.

Mrs. Dunn responded there was no discussion pertaining to that.

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

Mr. Jack Markey, Frederic County Division Emergency Management stated that he concurred with the staff report.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Brooks asked where the height of the break point is.

Mr. Markey replied 95'.

Commissioner Nash questioned if the Applicant had investigated obtaining any type of exception from the Maryland Department of Environment (MDE) regarding the lead paint abatement on the Butterfly Lane water tank under the premise that the proposal is for emergency communications.

Mr. Markey stated that the challenge has less to do with the ability to deal with it than it has to do with the funding and the timeline to do so. He added that the limitation on permanently locating a public safety communications structure on the Butterfly Lane water tank it requires full lead abatement done by the City of Frederick. If we locate it there without the lead abatement we run the risk of disturbing the envelope of the paint which City Public Works staff has advised us that due to the age of the structure, it is not possible to breach the paint without being prepared to deal with potential delamination of the paint.

Commissioner Brooks asked if his questions from workshop were answered regarding using bands as a means of securing the antenna to the tower instead of welding and testing other applicable sites for the pole.

Mr. Markey replied that any location on the current Butterfly Lane water tank would require removal of the system once it is operational would be an unacceptable risk to the public safety agencies that rely on our communication system. That the time, effort and money necessary to establish a public safety communication system is substantial and then take it offline for a period of time would be problematic and that he felt it would be an unwise use of tax dollars. He added that they have looked at alternative

sites, like the water tank, but it is unfortunate that the state for rehabilitation of it with the lead abatement precludes that site from being used.

Commissioner Brooks asked why the eastern side of Hargett Farm was never tested as a possible site.

Mr. Markey stated there are a number of issues when you are establishing a transmission site under both Federal Communications Commission and Federal Aviation Administration regulations. There are three sites that would make Hargett Farm problematic that are Maryland Historic Trust registered properties, one of them being Prospect Hall, the Thomas Nolan House and the Maple Farm. Any time a new structure is proposed within an area perceived as affecting registered historic structures, you enter into a whole new set of regulations. In the telecommunications section of the LMC it encourages co-location of telecommunications facilities on existing athletic lighting structures and that is what led us to the park which is the best location from a performance perspective, radio/engineering standpoint, and it allows the system to be linked to a site in New Market.

Alderman Russell added that when you build something like this, it is permanent and currently, there is yet to be a plan for the Hargett Farm. She stated that not knowing what the ultimate use of the property will be, it is not possible to make decisions like where to place the emergency communications structures. Alderman Russell asked if the applicant would be amenable to substituting the Norway Spruce for the White Pines as suggested by staff during their staff report presentation.

Mr. Markey replied that they have no objections to the suggestions that staff made, but just wanted to note that the proposed plantings are outside of the land area leased to the County which is why in the report it indicated we would work closely with city staff and that city staff would be maintaining the plantings outside of the communications compound.

PUBLIC COMMENT:

Scott Darby, 14 S. Pendleton Court, stated that at the last NAC meeting it was discussed that there will be a cell antenna bolted to the water tank and that it will be removed if lead abatement is done and his concern is that will they put cell phone antenna on the subject tower as well He added that new contracts for cell phone equipment on the Butterfly Lane water tank will require the provider to remove the cell phone antenna and that he is leery of that. He added that if St. John's is historic why will it be developed and lastly, that he feels that the subject site does not need trees and wants to know if the footprint could be made smaller.

Charlie Snyder, resident of the Fraternal Order of Police, stated that he is looking forward to the new system and thinks the location is the best site for coverage of the radios.

PETITIONER REBUTTAL:

Mr. Markey stated that the compound is a 20' x75' compound and the distance to the propane tank is limited by building code and fire code requirements so we have a required distance that it has to be, however it has been compacted the compound as much as possible.

Mrs. Dunn also stated that at the NAC 8 meeting, a pending Board of Appeals conditional use application from T-Mobile for antennas on the Butterfly Lane water tower was presented. She said that what differentiates the two proposals is the T-Mobile antennas are mounted on the hand rail so they don't require any penetration of the tank itself. She added that at the NAC meeting, one of the questions that did come up was that when the lead abatement is necessary how the city would interface with all the carriers to coordinate the removal of their equipment. She also stated that Keith Brown, DPW, indicated that new

lease agreements will include provisions that speak to the applicant's requirement to remove those at such time as the city says.

Mr. Brooks had a prepared statement that he read into the record. He stated that he has not met anyone who opposes the pole to improve the communications of the first responders of safety personnel. He also stated his concerns of the location of the pole and why other sites are not appropriate to facilitate the pole.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Brooks moved to recommend PC11-620FSI that the Norway Spruce be planted and that no barb wire fencing is located on the site as read into the record by staff.

SECOND: Commissioner Stup.

VOTE: 5-0.

Meeting adjourned at 6:55 p.m.

Respectfully Submitted,

Carreanne Eyler-Administrative Assistant

APPROVED 12-12-2011