

Planning Commission Hearing Minutes
DATE: April 8, 2019

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Arlene Perkins – Vice Chair	Barbara Nicklas – Chair	Gabrielle Collard, Division Manager of Current Planning
Kelly Russell – Alderman & Secretary	Ron Burns	Scott Waxter, Assistant City Attorney
Joan Strawson		Marshall Brown, City Planner
		Tierre Butler, City Planner
		Sherry Kelly, City 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, April 15, 2019 at 2pm in the Municipal Annex Building.
- The Planning Department will be having a Planning 101 class for the public the first weekend in May. Participants can register online at the City of Frederick website.

II. APPROVAL OF MINUTES:

Approval of the **March 11, 2019** Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Strawson

SECOND: Alderman Russell

VOTE: 3-0.

Approval of the **March 18, 2019** Planning Commission Workshop Minutes as amended:

MOTION: Commissioner Strawson

SECOND: Alderman Russell

VOTE: 3-0.

Approval of the **April 5, 2019** Planning Commission Workshop Minutes as amended:

The Commission postponed the approval of the minutes until the next scheduled Planning Commission Hearing.

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. MISCELLANEOUS- None

V. 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.)

VI. CONTINUANCES:

A. PC18-1203FSI, Final Site Plan, Iglesia Evangelica Palabra Viva, Inc

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve a 30-day continuance to the **May 13, 2019** public meeting.

SECOND: Commissioner Strawson

VOTE: 3-0

VII. OLD BUSINESS:

B. PC19-78ZMA, Zoning Map Amendment, 300 E. 4th

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approve a positive recommendation from the Planning Commission to the Mayor and Board of Aldermen for the rezoning 0.422 acres from Institutional (IST) to Light Industrial (M1) based on the following findings:

1. That the use upon which the application of the floating zone was based, a private club, has been discontinued;

2. That the contract purchasers of the Property propose to use or redevelop the Property in accordance with the M1 district, which is base zone established during the 2005 and 2013 Comprehensive Rezoning; and
3. The proposed reversion is in harmony with the Economic Development Element of the 2010 Comprehensive Plan.

SECOND: Alderman Russell

VOTE: 3-0

VIII. NEW BUSINESS:

C. PC18-1119PSU/FSI, Combined Preliminary Plat and Final Site Plan, Renn Property

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approval of the combined preliminary plat and final site plan for the Renn Property, PC18-1119PSU/FSI, in compliance with all of the applicable criteria of Articles 3, 4, 5, 6, 8 and 12 of the LMC, and conformance with master plan approved for the subject property, the 2010 Comprehensive Plan, the adequacy of facilities and services to accommodate the impacts of the development, with the following conditions of approval:

1. Add a note that a private access easement agreement shall be executed and recorded for the townhouse units across Lots 2 and 3, with the existing access easement shown on the plan to determine if the original easement will need to be adjusted prior to final plat.
2. Verify that the existing private access easement agreement between Lots 4 and 5 is accurately defined for this plan; otherwise the access easement will need adjustment to serve Lot 4.
3. Add square footages and bearings and distances on lots on all preliminary plat sheets.
4. Add a reference to the corresponding unit-type detail to the plan sheets for all lots.
5. Sheet 4, add optional D-3 unit showing detached garage in coordination with design booklet and typicals on Sheet 5.

SECOND: Alderman Russell

VOTE: 4-0

D. PC19-72FSI, Final Site Plan, Wendy's

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approve the modification to Section 605(d) (2) requiring Level I screening must be provided along lot lines of other adjacent GC zoning finding that:

1. The modification will not be contrary to the purpose and intent of the Code as the Applicant site is part of an integrated shopping center and the absence of screening promotes continuity of the site with the surrounding retail stores.
2. The modification is consistent with the 2010 Comprehensive Plan in that it is compatible with the character of the surrounding area.
3. The application includes compensating design or architectural features so as to meet overall objectives by providing more trees than are required by Code throughout the site and by increasing the overall site's permeability.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approve modification to Section 613(a) (3) that requires a dumpster enclosure not located next to a building to be screened with year round landscaping on three sides finding that:

1. The modification will not be contrary to the purpose and intent of the Code as the dumpster will be enclosed and screened on two sides.
2. The modification is consistent with the 2010 Comprehensive Plan in that it is compatible with the character of the surrounding area.
3. The application includes compensating design or architectural features so as to meet overall objectives including the design of the dumpster enclosure which will be consistent with the materials of the principal structure and an overall increase in the site's permeability.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approve the modification to Section 819(b) (2) requiring a bypass lane with a minimum width of 9 ft. finding that:

1. The modification will not be contrary to the purpose and intent of the Code because the design will still allow for vehicles to easily exit the drive-through line if necessary

2. The modification is consistent with the 2010 Comprehensive Plan in that it is compatible with the character of the surrounding area.
3. The application includes compensating design or architectural features so as to meet overall objectives because the drive through will have two lanes and vehicles will have the option to exit.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for conditional approval of Final Site Plan, PC19-72FSI based on compliance with all of the applicable criteria of Sections 309 of the LMC as well as the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 and consistency with the 2010 Comprehensive Plan with the following conditions:

1. Revise the modification note on the plan to include the approval date.

SECOND: Alderman Russell

VOTE: 3-0

E. PC18-1191FSI, Final Site Plan, Hood College

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved approve the modification to Section 605(d) to the required 10' Level II landscape buffer finding that:

1. The modification is not contrary to the purpose and intent of the LMC. The current parking lot is only 4.75' from the property line. The new parking lot configuration will be only 1.02' from the property line, but there is existing landscaping and a fence along the shared property line with Frederick Memorial Hospital.
2. The modification is consistent with the Comprehensive Plan, as it supports infill and redevelopment opportunities and allowing for flexibility in design elements to mitigate site constraints often faced with redevelopment projects.
3. The application includes compensating design or architectural features so as to meet overall objectives of the particular requirement in that existing landscaping and a fence will compensate for the lack of the buffer.

SECOND: Commissioner Strawson

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve the modification to Section 607, Table 607-1, to the minimum required parking for campuses with on-campus housing finding that:

1. The modification will not be contrary to the purpose and intent of the Code as it still provides for on-site parking while promoting a pedestrian-friendly environment;
2. The modification is consistent with the Comprehensive Plan in that it supports redevelopment and seeks to maintain the park-like atmosphere of the campus;
3. The application includes compensating design or architectural features to enhance walkability and will reduce the number of commuting students.

SECOND: Commissioner Strawson

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved for approval of the Hood College Residence Hall site plan, PC18-01191FSI, 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 to be met:

1. Include a bicycle rack detail on the site plan.
2. Revise Note #7 to include the APFO exemption approval date.
3. Add a reference to the date of approval of the requested parking modification on Sheet C1.0 under "Site Parking Data".
4. Revise the "Sheet Notes" on Sheet L3.1 to reference the date of approval of the requested modification to the Level II parking lot buffer requirement.
5. Revise the Site Parking Data on Sheet C1.0 to correct the minimum number of parking spaces required to 314.

SECOND: Commissioner Strawson

VOTE: 3-0

F. PC18-1192FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Hood College

Ms. Kelly 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 the modification to Section 721(d)(2) to remove two specimen trees in accordance with Section 721(b)(3) finding that:

1. The special conditions peculiar to the property would cause the unwarranted hardship;
2. The enforcement of this section will deprive the applicant of rights commonly enjoyed by others in similar areas;
3. The granting of the modification will not confer on the applicant a special privilege that would be denied to other applicants;
4. The modification request is not based on conditions or circumstances, which are the result of actions by the applicant;
5. The request does not arise from a condition relating to land or building use, either permitted or nonconforming, in a neighboring property; and
6. The granting of a modification will not adversely affect water quality.

SECOND: Commissioner Strawson

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved to approve the Hood College Residence Hall Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, PC18-01192FSCB, for the Hood College Residence Hall, based on compliance with all applicable criteria of Section 721, with the following conditions to be met:

1. Add a note indicating that demolition within 50' of the CRZ of specimen trees will require a licensed tree expert on site to assure avoid root damage and correct root pruning practice.
2. On all sheets, add the signature of the licensed professional.
3. On Sheet F-300:
 - a. Ensure all trees to remain, including 1281 and 1296, are shaded to indicate such.
 - b. Provide a more prominent symbol for the specimen tree protection signage.
 - c. Note that utilities shall be trenched through CRZ of tree areas.
4. On Sheet F-310:
 - a. Relocate six of the seven Red Oaks more centrally to the landscape strip.
 - b. Under the "Notes" revise third bullet point to indicate that authorization is also required from the Planning Department and add a note indicating that the substitution of species is subject to approval by the Planning Department.
5. On Sheet F400:

- a. Add to the signage detail that 50% of protection signage shall remain permanently on site.
 - b. Delete Note #1.
 - c. Add notes to comply with Section 721(b) (4B) for Inspection process.
 - d. Add a note that bonds/guarantees and protection easement agreements shall be executed concurrently with final forest plan and prior to improvement plan approval and/or demolition permit.
 - e. Add a note that guarantees shall be released at end of maintenance period and meeting survival of 100%.
 - f. Edit Note 6 to read, "Fencing shall be maintained throughout construction and throughout the duration of the two year maintenance period.
6. Revise the plan to depict the drive aisle and LOD surrounding Specimen Tree 1281 as shown on Exhibit 1.
 7. Revise the plan to reflect the parking and sidewalk removal surrounding Specimen Tree 1092 as shown on Exhibit 2.

SECOND: Commissioner Strawson

VOTE: 3-0

G. PC18-667FSI, Final Site Plan, 410 Chapel Alley

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

Ricardo Bairan of 207 E. 5th Street had concerns with the grade of the intersection and storm water management in the winter as the water stays on the road and freezes on the alley. He also asked if there would be an environmental analysis completed.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved to approve of a modification to Section 309(j)(2)(A) of the LMC concerning bicycle parking, based on the following findings in accordance with Section 309 of the LMC:

1. The modification will not be contrary to the purpose and intent of the Code;
2. The modification is consistent with the Comprehensive Plan; and
3. The application includes compensating design or architectural features so as to meet overall objectives of the particular requirement.

SECOND: Alderman Russell

VOTE: 4-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for conditional approval of final site plan PC18-667FSI based on compliance with all of the applicable criteria of Articles, 4, 5, 6, 7, 8 and 12 of the LMC, consistency with the 2010 Comprehensive Plan and based on the finding of adequacy of facilities and services to accommodate the impacts of the development with the following conditions:

1. That a payment of \$8,000.00 be made to the City of Frederick for fee-in-lieu of parkland dedication.

SECOND: Alderman Russell

VOTE: 3-0

H. PC18-804PSU/805FSI, Combined Preliminary Plat and Final Site Plan, Free & Medwid

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

Debby Moone of 7814 Rocky Spring Rd. would like to have historic signs placed on the property to inform the public about the history of the property and will try to raise funds for interpretive panels.

April Inskip with Michelle & Martz, P.A. who represents the Rocky Springs Cemetery advised the cemetery has agreed to grant an easement. She advised that they have also entered into a verbal agreement with developer for landscaping, fencing, one direction sign, entrance gates with signage and lighting on the shared use path.

Phillip Helms of 1812 Free Terrace has concerns about access getting to the property once development is completed. Mr. Helms also has concerns about the construction traffic, heavy equipment and general traffic that travels through the roads and will create major traffic issues. .

William Holtzinger with Weaver & Fitzpatrick, P.A. who represents the McAllisters and the Slagles, and advised that he concurs with the applicant and staff's comments and he's confident that any agreements will be able to be worked out with staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for approval of a modification to Section 605(f) of the LMC to the street tree requirement, as documented in the staff report, finding that:

- A. The modification will not be contrary to the purpose and intent of the Code;
- B. The modification is consistent with the Comprehensive Plan; and
- C. The application includes compensating design or architectural features including the planting of the same number of trees elsewhere on the site.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for approval of a modification to Section 608(e) (5) (A) of the LMC to allow more than 70% of the parkland dedication to be within the 100-year floodplain, as documented in the staff report, finding that:

- A. The modification will not be contrary to the purpose and intent of the Code;
- B. The modification is consistent with the Comprehensive Plan; and
- C. The application includes compensating design or architectural features which includes the dedication of parkland in excess of what is required per Section 608 as well as the dedication and construction of the shared use path section through the Property.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for approval of a modification to Section 611(k) of the LMC to allow a cul-de-sac which is designed to be permanently closed to be greater than 350' in length, as documented in the staff report, finding that:

- 1. The property is subject to unusual conditions that make it impracticable or undesirable to insist upon strict adherence,
- 2. The modification does not conflict with the general purpose and intent or the regulation subject to modification, and
- 3. The modification does not conflict with any provision of the Comprehensive Plan or with the general purpose and intent of these regulations.

SECOND: Alderman Russell

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Strawson moved for approval of the combined preliminary plat and final site plan for the Free Medwid Property, PC18-804PSU/805FSI, in compliance with all of the applicable criteria of Articles 3, 4, 5, 6, 8 and 12 of the LMC, and conformance with master plan approved for the subject property, the 2010 Comprehensive Plan, the adequacy of facilities and services to accommodate the impacts of the development, with the following conditions of approval:

1. That the Applicant receives approval from the Mayor and Board of Aldermen to conduct afforestation in accordance with Section 721 in the area offered for parkland dedication and that a note is added to the plan stating the approval date.
2. That *"Master Plan Notes"* be revised to read *"General Notes"* on the plan sheet.
3. That a general note be added to the plan to consolidate the list of modifications approved with the preliminary plat/final site plan application.
4. That note #3 be updated to correct the date of unconditional approval of the Master Plan to March 8, 2019.
5. That the landscape plan be updated to show street trees along Rocky Springs Road.
6. That note #9 is updated to show the MPDU agreement recording reference book and page number.
7. That the entire length of the Shared Use Path be depicted as a fee-simple dedication to the City.
8. That the proposed easement granting vehicular access to the Cemetery and the McAllister Property (L.3143 P. 805) along the Shared Use Path be depicted on the plan as extending from the T-turnaround at the terminus of Eagle Rock Lane to the southern property line of the Cemetery.
9. That the proposed easement granting access to the Slagle Property (L.12327, F. 432) for the benefit of farm equipment be depicted on the plan as extending from the terminus of the public right-of-way from Rocky Springs Road to the southern boundary of the Cemetery.
10. That the *"Reservation for Future Road Connection"* be labeled as *"Right-of-Way Dedication for Future Road Connection."*
11. That a note be added to the plat stating, *"The right-of-way dedication that will be provided at the time of final plat recordation for the Future Road Connection will not be accepted by the City until such time that the City causes the road to be constructed. Until the road is constructed to City Standard, the area within the dedication will be maintained by the HOA of the Free Medwid Property. The developer of the Free Medwid Property has no obligation to construct the road. The road will be constructed in conjunction with the development of the adjoining property (L. 12327, F. 432) by the developer of that property."*
12. That a note be added to the plan stating, *"Prior to the recordation of the final plat for parkland dedication, confirmation of clear title for the areas to be dedicated, including but not limited to the areas surrounding and containing the Shared Use Path, will need to be provided."*
13. That the approximate location of safety bollards along the Shared Use Path be depicted on the plan at the northern and southern extent of the Cemetery and at the terminus of the public right-of-way from Rocky Springs Road.
14. That a note be added to the plan stating that the final alignment of the Shared Use Path connection to Walnut Ridge Park will be determined at the time of Improvement Plans.
15. That the plat shows the entire right-of-way from the roadway centerline for Rocky Springs Road.

SECOND: Alderman Russell

VOTE: 3-0

I. PC18-806PFCP, Preliminary Forest Conservation Plan, Free & Medwid

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

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved for approval of a modification to Section 721(d) (2) of the LMC to remove five specimen trees, as documented in the staff report and the Applicant's justification statement, finding that:

1. The special conditions peculiar to the property would cause the unwarranted hardship;
2. The enforcement of this section will deprive the applicant of rights commonly enjoyed by others in similar areas;
3. The granting of the modification will not confer on the applicant a special privilege that would be denied to other applicants;
4. The modification request is not based on conditions or circumstances, which are the result of actions by the applicant;
5. The request does not arise from a condition relating to land or building use, either permitted or nonconforming, in a neighboring property; and
6. The granting of a modification will not adversely affect water quality.

SECOND: Commissioner Strawson

VOTE: 3-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Perkins moved for approval of the preliminary forest conservation plan, PC18-806PFCP, based on the findings in accordance with Article 7, Section 721, *Forest Conservation*, with the following conditions:

1. Revise the general notes section to read "General Notes" instead of "Case History."
2. That a note be added which lists the modification approved with the preliminary forest conservation plan.

SECOND: Commissioner Strawson

VOTE: 3-0

Meeting approximately adjourned at 8:30 pm

Respectfully Submitted,

Jessica Murphy
Administrative Assistant

APPROVED 05/13/2019