

**Planning Commission Hearing Minutes**  
**Date: November 12, 2019**

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Barbara Nicklas – Chair Ron Burns – Vice Chair Kelly Russell – Alderman & Secretary Joan Strawson Dorothy Menelas		Gabrielle Collard, Division Manager of Current Planning Scott Waxter, Assistant City Attorney Marshall Brown, City Planner Pam Reppert, City Planner Sherry Kelly, City Planner Jessica Murphy, Administrative Assistant

**I. CALL TO ORDER:**

**II. ANNOUNCEMENTS:**

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

- The City is in the process of doing the 2020 Comprehensive Plan update. There is a webpage specific to the update on the City of Frederick website with different opportunities for public involvement to include an interactive mapping application for comments and a questionnaire as well as updates for upcoming meetings. The deadline for submitting requests for land use reclassifications is December 21<sup>st</sup>.
- The City of Frederick will be hosting an informational APFO meeting to go over changes and offer an opportunity for questions on November 19, 2019 at 6pm at the Municipal Annex Building in Conference Room C.
- Materials for the November 18, 2019 Planning Commission Workshop are available online.

**III. APPROVAL OF MINUTES:**

Approval of the October 14, 2019 Planning Commission Meeting Minutes as amended:

**MOTION:** Commissioner Burns  
**SECOND:** Commissioner Strawson  
**VOTE: 5-0.**

Approval of the October 21, 2019 Planning Commission Workshop Meeting Minutes as amended:

**MOTION:** Commissioner Strawson  
**SECOND:** Commissioner Menelas  
**VOTE: 5-0.**

Approval of the November 8, 2019 Pre-Planning Commission Meeting Minutes as amended:

**MOTION:** Commissioner Burns  
**SECOND:** Commissioner Strawson  
**VOTE: 5-0.**

**IV. PUBLIC HEARING-CONSENT ITEMS:**

(All matters included under the Consent Agenda are 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. CONTINUANCES:**

**A. PC19-659MU, Master Plan, Monocacy Center**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved for a continuance to the December 9, 2019 Planning Commission meeting.

**SECOND:** Commissioner Menelas

**VOTE: 5-0.**

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**VI. MISCELLANEOUS:**

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**VII. OLD BUSINESS:**

**B. PC19-753ZMA, Zoning Map Amendment, Frederick Town Mall**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to send a positive recommendation to the Mayor and Board of Aldermen for the rezoning of the Frederick Towne Mall (the "Property") from General Commercial (GC) with certain conditions of rezoning to General Commercial (GC) without conditions of rezoning finding that:

A mistake was made during the 2013 Comprehensive Rezoning when the Board placed conditions on the zoning of the Property to GC, specifically that the Board failed to consider conditions that were reasonably conceivable in the future, that is the possibility that a big box retailer would not be built on the Property. In addition, in accordance with Sections 306 and 307 of the Land Management Code (LMC), the Commission also made the following findings of fact:

1. That the current zoning district, GC, does not allow residential units on the Property except as accessory apartments, with the approval of the Zoning Board of Appeals; therefore, it is not anticipated that removal of the Conditions affect the City's population with any future development scenarios. The Conditions were generally design-based in nature and did not contemplate residential uses on site.
2. That the site is currently served by public roads, water, and sewer lines that are maintained by the City, and while the maximum development potential of the Property could potentially increase demands on public infrastructure; those demands on public infrastructure will be assessed when development plans are submitted. No new construction or expansion of the structures is proposed at this time, and any future redevelopment will meet the requirements of the Adequate Public Facilities Ordinance (APFO);
3. That the rezoning of the Property to remove the Conditions could result in increased redevelopment interest in the site, which would invariably increase levels of vehicular as well as

pedestrian traffic along the road network; however, there are planned multimodal improvements to the transportation network in the vicinity of the Property and along the Golden Mile.

4. That rezoning to GC without conditions of rezoning is compatible with the surrounding GC and high-density residential uses; and
5. That the rezoning is consistent with policy elements of the 2010 Comprehensive Plan, including Land Use Policies 1 and 8, Community Character and Design Elements 1 and 2, and Economic Development Element Policies 2 and 5, as well as the implementation strategies incorporated therein.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0.

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**VIII. NEW BUSINESS:**

**C. PC19-745FSI, Final Site Plan, Service Glass**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved for approval of the Final Site Plan, PC19-745FSI, for Service Glass, finding that the plan complies with all of the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC, that is it consistent with the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities, with the following conditions:

1. Under General Notes Section "B", update Notes 2 and 3 to include the monument control numbers.
2. Under General Notes Section "R", add the Case number for the Combined Forest Stand Delineation/Preliminary Forest Conservation Plan (PC19-746FSCB) and approval date.
3. Provide additional plantings in the green area south of the building as noted in the staff report in order to achieve the 10% minimum interior parking lot landscaping standard of Section 605.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0.

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**D. PC19-746FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Service Glass**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved for unconditional approval of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, PC19-746FSCB, for Service Glass, to pay a fee in lieu of mitigation in the amount of \$8,232.84, based on compliance with all applicable standards of Section 721 of the LMC and consistency with the 2010 Comprehensive Plan.

**SECOND:** Commissioner Strawson

**VOTE:** 5-0.

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**E. PC19-417FSI, Final Site Plan, Aviation Way Business Center**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved for approval of the Final Site Plan, PC19-417FSI, for Aviation Way Business Center, finding that the plan complies with all of the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC, that it is consistent with the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities, with the following conditions:

1. The cross-access easement must be recorded over the adjacent property to be recorded and the recording reference labeled on the plan.

**SECOND:** Commissioner Menelas

**VOTE: 5-0.**

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**F. PC19-418FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Aviation Way Business Center**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved for approval of a modification to Section 721(d)(2) to remove two specimen trees in accordance with Section 721(b)(3) finding that:

1. That the recent utility work and disturbance to the critical root zones of the trees poses a special condition peculiar to the property, by which their retention would cause an unwarranted hardship in creating a hazard to the new construction;
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 Burns

**VOTE: 5-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson approval of the of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, PC19-418FSCB, based on compliance with all applicable standards of Section 721 of the LMC and consistency with the 2010 Comprehensive Plan, with the following conditions:

1. The plan must be revised to indicate the removal of the two specimen trees.

2. The planting listing and the landscaping easement area depicted on Sheet 2 must be revised to include additional plantings to replace the removed specimen trees.
3. The Specimen Tree table on Sheet 2 must be revised to indicate the health of the trees and their status based on the recent findings of the Applicant's Arborist as documented in the letter dated October 24, 2019.
4. The Specimen Tree Disturbance calculations must be deleted to reflect complete removal.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0.

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**G. PC19-743FSI, Final Site Plan, Bowersox Lot 2A**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved for approval of the modification request from Section 607, Table 607-4 to eliminate the requirement for a 9'x20' loading space on site-based finding that the criteria of Section 309(j) have been met as follows:

1. The modification will not be contrary to the purpose and intent of the Code as the size and use of the building will not require deliveries to the site that warrant a designated loading space;
2. The modification is consistent with Land Use Policy 1 of the Comprehensive Plan; and
3. That the Applicant is able to provide additional parking in the place of the loading space serving which is a compensating design feature that meets the overall purpose and intent of the code.

**SECOND:** Commissioner Strawson

**VOTE:** 5-0

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns approval of the Final Site Plan for the Bowersox Property, PC19-743FSI, finding that the plan complies with all of the applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC, that is it consistent with the master plan and the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities with the following condition:

1. Note 10 be updated to reflect the approval of the loading modification including the date of approval.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0

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**H. PC19-574PSU Preliminary Plat, Governor's Place**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson motioned for approval of the modification request to Table 601-2 *Separation Distances*, to reduce the distance required between two private drives on a collector street from 100' to 98.5', finding that

1. The location of the existing access point makes compliance impracticable;
2. The modification does not conflict with the general purpose of intent of regulations as it does not interfere with existing vehicular circulation.
3. The modification does not conflict with intent of the Comprehensive Plan Area Planning for redevelopment.

**SECOND:** Commissioner Burns

**VOTE: 5-0**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson motioned for approval of the modification request from Section 606(b)(2) that requires lots to front on a public street or access for Lot 4D, finding that

1. The overall property has a narrow frontage width in comparison to the overall lot size, which limits lot frontages and restricts direct access to Thomas Johnson Drive;
2. The modification does not conflict with the intent of the regulation with provided access easement to Thomas Johnson Drive; and
3. The modification does not conflict with Comprehensive Plan to support redevelopment of the property along Thomas Johnson Drive.

**SECOND:** Alderman Russell

**VOTE: 5-0**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson motioned for approval of Preliminary Plat, PC19-574PSU, for Governor's Place finding that the plat complies with Article 5 of the LMC, that it is consistent with the Comprehensive Plan and that the site will be adequately served by public facilities with the following conditions:

1. Obtain unconditional approval of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan (PC19-576FSCB) and complete note 7.
2. Complete APFO Note 6 with approval dates.
3. The existing access point on Thomas Johnson Drive must be revised to show the left turn lane and separate through/right lane.
4. The Applicant must provide a final Traffic Impact Study (TIS) for approval by the Engineering Department.

**SECOND:** Commissioner Menelas

**VOTE: 5-0**

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**I. PC19-573FSI, Final Site Plan, Governor's Place**

**PLANNING COMMISSION ACTION:**

**MOTION:** Alderman Russell motioned to deny the modification to Section 605(c)(2), *Property Landscaping Requirements*; finding that the modification is contrary to the purpose and intent of the Code in that the planting requirements are a function of site plan approval and should be considered in conjunction with the approval, based on hearing discussions and Applicant's agreement with the above site plan conditions of approval.

**SECOND:** Commissioner Burns

**VOTE:** 5-0

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns motioned for approval the modification request to Section 605, Table 605-3 *Buffer and Screening by District or Use*, with a vote 5-0, finding that:

1. The modification is not contrary to the purpose and intent of the Code;
2. The modification is consistent with Comprehensive Plan, Community Character and Design Element Policy 2 to encourage infill of vacant or underutilized property;
3. That the project provides compensating design elements to meet the overall objectives to screen business park property lines instead.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns motioned for approval of the modification from Section 607(e)(2)(D) *Parking Area Lighting* requirement, with a vote 5-0, to contain the light within the property boundaries, finding that:

1. The modification is not contrary to the purpose and intent of the Code for safety within the business park;
2. The modification is consistent with Comprehensive Plan, Community Character and Design Element Policy 2 to encourage infill of vacant or underutilized property;
3. That the project provides compensating design or architectural features so as to meet the overall objectives of the requirement with associated shared parking and having no impact on adjacent properties outside of the business park.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns motioned for approval of Governor's Place, PC19-573FSI, Final Site Plan, referenced above, with a 4-1 vote in accordance with all applicable criteria of Articles 4, 5, 6, 7, 8, and 12 of the LMC, that it is consistent with the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities, with the following conditions to be met:

1. Obtain unconditional approval of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan (PC19-576FSCB) and fill note 9.
2. Show 41 trees to be planted on Open Space outlot with a note stating that the trees shall be coordinated for planting with the Final Forest Conservation Plan.
3. Obtain unconditional approval of the Preliminary Plat (PC19-574PSU) and add case and approval date to Note 9.
4. Edit Note 8 to list the APFO certificates for waterline, sewer line and roads with the respective approval dates.

**SECOND:** Commissioner Menelas

**VOTE:** 4-1 (Commissioner Strawson Opposed)

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**J. PC19-576FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson motioned for unconditional approval of Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, PC19-576FSCB, for Governor's Place in accordance with Article 7, Section 721 and the Maryland Forest Conservation Act regulations.

**SECOND:** Commissioner Menelas

**VOTE:** 5-0

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Meeting approximately adjourned at 7:45 pm

Respectfully Submitted,

Jessica Murphy  
Administrative Assistant