

**Planning Commission Hearing Minutes
December 12, 2011**

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash Alderman Russell Josh Bokee Rick Stup	Elisabeth Fetting Gary Brooks	Gabrielle Dunn-Division Manager of Current 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:

Mrs. Dunn stated that the Planning Department will be taking request letters for Comprehensive Rezoning that they are starting in January and will accept letters until January 27, 2012.

II. APPROVAL OF MINUTES:

Approval of the **November 14, 2011** Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Stup.

SECOND: Alderman Russell.

VOTE: 3-1. Commissioner (Commissioner Bokee abstained)

Approval of the **November 21, 2011** Planning Commission Workshop Minutes as amended:

MOTION: Commissioner Stup.

SECOND: Commissioner Bokee.

VOTE: 4-0.

Approval of the **December 9, 2011** Pre-Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Stup.

SECOND: Alderman Russell.

VOTE: 4-0.

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.)

- A. **PC11-106FSU, Final Subdivision Plat, Board of Education, Frederick Electronics**
- B. **PC11-598FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Board of Education, Frederick Electronics**

PLANNING COMMISSION ACTION:

MOTION: Commissioner Stup moved to approve PC11-106FSU and PC11-598FSCB, Board of Education, Frederick Electronics as presented in the staff report.

SECOND: Commissioner Bokee.

VOTE: 4-0.

V. **MISCELLANEOUS:**

- C. **Approval of the 2012-2013 Planning Commission Deadline Schedule**

PLANNING COMMISSION ACTION:

MOTION: Commissioner Stup moved to approve the 2012-2013 Planning Commission Deadline Schedule.

SECOND: Alderman Russell.

VOTE: 4-0.

- D. **PC11-493PND, Master Plan, Worman's Mill Village Center**

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 a revision to the previously approved Master Plan for the Worman's Mill PND.

The Applicant is also requesting a modification to allow for a zero (0') setback along adjoining property lines of parcels within the Village Center as permitted under Section 16.10 of the Zoning Ordinance.

INITIAL PLANNING STAFF RECOMMENDATION:

Per Section 310(f), amendments to Master Plans which require Planning Commission approval must be processed in accordance with the requirements for new Master Plan applications, as such, two public hearings must be held on this application in accordance with Section 310(d). This is the first of the required hearings and as such, no action is required at this time.

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. Scott Miller, Weinberg & Miller stated that the Applicant would be presenting the site plan and preliminary subdivision plat in addition to the master plan at the second hearing. He stated that at that time they would be presenting the applications in much greater detail and show how they interact with one another as part of the overall design requested. He stated that they would only be providing a brief overview for the hearing tonight.

Mr. Mike Wiley, Piedmont Design Group gave a brief update on changes that were made to the master plan since the approved 2009 plan.

Mr. Ed Wormald, Wormald Development stated that they have had numerous discussions with interested parties. He added that over the course of those meetings we heard comments, listened and incorporated many of those comments to the plans that will be presented to the Planning Commission next month. He noted the change to the Merchant Street right-of-way abandonment and the reduction in floors of the buildings. He also noted that they have made a website for communication purposes and hope that it demonstrates that they take the concerns of the citizens to heart.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Nash asked Mr. Wormald what his definition of resort style village was.

Mr. Wormald stated that a neighborhood shopping center that is upscale.

Commissioner Bokee questioned the retail being reduced to half and how that no longer fits into the context of the concept plan moving forward.

Mr. Wormald replied that in 2008 the plan was revised to 65,000 s.f and the Planning Commission process that represented about ½ of the retail customer were envisioned to come from the outside.. Some of the comments that were made in that approval process were the residents only wanted customers from the internal community and that they did not want outside traffic. He stated that the reduction in size was driven by some of those comments and trying to create a viable village center.

Commissioner Bokee asked him to explain the importance of the impact of setbacks to the project as well as the effects of the existing residential units.

Mr. Wiley responded that the internal setback request was a late change to the plan; there are two standalone buildings on the revised site plan design that will be before the Planning Commission next month. The creation of those buildings on their own parcels and adding the new internal parcel line is just a means to separate the uses primarily for the loan facility that is being sought.

Commissioner Nash questioned if the right of ways were in the acreage calculations?

Mr. Wiley replied yes. All the land bays consistently included the adjoining roads within the parcels. The PND regulations talk about the density on the entire project which we haven't increased. He added the current proposal does show within the village center land bay at density at a little over 15 units to the acre

PUBLIC COMMENT:

Mr. Tom Gill resides at 2511 Waterside Drive stated that he had submitted a letter to the Planning Commission on December 9, 2011. He pointed out provisions of the LMC that should modify that conclusion. He opposes of the project.

Ms. Leslie Powell, Law Offices of Leslie Powell stated that what standards the Planning Commission should apply in evaluating the proposed revisions to the village center. She stated that the revisions deviate tremendously from what the residences bought into. Ms. Powell also stated that the density increased over 80% from what was originally approved. She noted that there is a complete elimination of setbacks between the abutting parcels and the village center which would affect the park area. Ms. Powell stated the commission should consider all the modifications that are being sought because this is a new submission. She added that she believes the Commission does not have the authority under the 1986 Ordinance to grant these wholesale modifications and the project should be treated under the Land Management Code as amended. Ms. Powell indicated that the applicant should re-request all modifications that it seeks in connection with this new plan in the context of what the applicant currently intends to do. Ms. Powell also submitted a formal written letter to the commission.

Mr. Scott Shepherdson, a resident of Worman's Mill, stated that this is going to bring an additional 5,000 people to Worman's Mill and feels that it isn't adequate to handle that. He added that it is disheartening that it is discussed how the communication has been open, but in fact a lot of times it is just for an additional modification. He said there will not be a single green space left and this will be built right in front of his house.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

Commissioner Nash stated that there is a lot of questioning on interpretation of various legal sections of the code in the LMC and what does/doesn't apply. She asked Mr. Scott Waxter, Assistant City Attorney to provide a written response to the commission regarding Ms. Powell's letter before the January hearing.

Commissioner Stup stated that the Commission will be looking at the setbacks individually within the context of all the plans that are submitted rather than just granting it with the master plan.

Mrs. Dunn stated this is a new plan and under the conditions and understanding of which those previous modifications were granted has prompted staff to also request that the applicant request all them again.

Commissioner Bokee stated that some areas of focus would be for workshop to explore more with the applicant in regard to parking, building heights, massing, vehicle trips, and encroachment onto the private park.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from Planning staff.

PLANNING COMMISSION ACTION:

This was the first of two required hearings so no action was required.

E. PC11-599ZTA, Text Amendment, Urban Wineries

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the Economic Development Office of the City of Frederick proposes text amendments to the Land Management Code regarding wineries within the City of Frederick, specificity to include Sections 857, *Winery*, 813, *Commercial Use in Historic Structures*, and 607, *Parking and Loading Standards*.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff supports a positive recommendation to the Mayor and Board of Aldermen for the amendments as proposed.

PLANNING COMMISSION QUESTIONING OF STAFF:

Alderman Russell asked if the Planning Commission were to include this to be reviewed by the Historic Preservation Commission (HPC) is there anything in city code under their duties that we will also have to amend to make it consistent or can they take this on as a review without any change.

Mr. Waxter stated that they will be giving the Planning Commission a recommendation and doesn't think this is outside what they can already do.

Commissioner Bokee stated that the HPC will be able to make comments on how the use of historic structures?

Mrs. Dunn replied the language is being revised and formalizing a process where when the use of an historic structure was doing exterior changes to it that was outside the Historic Preservation Overlay (HPO) then they would be the recommending body to the Planning Commission and in reviewing any external changes to the historic structure.

Commissioner Nash questioned the impact on residential areas and understands the historic structure ordinance which allows as a conditional use by right and adding winery to it, which one of those is restaurant with entertainment. In our current ordinance restaurant with entertainment can be in a historic structure, but as a conditional use there is an additional review to the impact on the residents and also 500 feet from a residential zoned area. She added then with the winery we are proposing to take away the 500 feet requirement where winery will not have any review as it would if it was a conditional use abutting a residential neighborhood. So the winery abutting a residential neighborhood will not have the Zoning Board of Appeals (ZBA) review on impact.

Mrs. Dunn replied both the restaurant with entertainment and the winery are considered conditional uses and then there is a 3rd conditional use of the historic use of a structure and the way it is written now under the conditional use of a commercial use of an historic structure in any district it can be a restaurant with entertainment but they have to comply with the provisions for a restaurant with entertainment as well as the commercial use. She added that they are proposing to do the same thing with the winery and say it is a conditional use as a commercial use of an historic structure in any district including residential and it is a conditional use as a winery so it will need to comply with the winery regulations as well as the historic use one. Mrs. Dunn stated that with winery it is given the flexibility for the board to approve a waiver of those 500 feet as part of their conditional use.

Commissioner Nash commented that she doesn't have concerns with the parking standard with the 60/40 percent storage aspect but asked Mrs. Dunn to explain to the audience.

Mrs. Dunn stated that under the winery requirements in terms of the use in order to ensure that it still stays in production manufacturing facility to a certain extent there is a split on that not more than 40% of the total facility can be used for an accessory component which include things like retail sales and tasting events so 60% of that building has to be production, storage and 40% are going to be those spaces that are big patron generators

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

Ms. Heather Graham, Economic Development stated that she wanted to address some of the concerns that was discussed at the Planning Commission workshop about what wineries are and are not allowed to do by State code. She added that under Article 2 of the Innnotated Code of Maryland, wineries are permitted to provide tastings and sell by the glass or bottle, but only wine produced by the holder of winery license. Ms. Graham stated the wineries may store and premise the product used by other Maryland wineries only if it is to be used as a bondified Maryland Winery Association promotional activity. She concluded that the restrictions are handled at the State level and it is tailored toward selling wine produced winery.

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:

Mrs. Dunn stated that staff will look into the language we have regarding the public notice or what the HPC process will discuss on that before we forward our recommendation to the Mayor & Board of Aldermen and if there is any substantial change we will bring it back to the Planning Commission.

Commissioner Bokee stated he would be comfortable with a staff review subject to what the advertising requirements would be.

Mrs. Dunn replied that the way it is in front of the commission tonight is with the HPC review.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee moved for a positive recommendation to the Mayor & Board of Aldermen for PC11-599ZTA Urban Wineries.

SECOND: Commissioner Stup.

VOTE: 4-0.

Meeting adjourned at 77:25 p.m.

Respectfully Submitted,

Carreanne Eyer
Administrative Assistant

APPROVED 01-09-2012