

**Planning Commission Hearing Minutes**  
**Date: May 11, 2020**

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 Joe Adkins, Deputy Director of Planning & Community Development Brandon Mark, Division Manager of Comprehensive Planning/Urban Development Scott Waxter, Assistant City Attorney Jessica Murphy, Administrative Assistant Pam Reppert, Planner III Sherry Kelly, Planner II Cherian Eapen, Traffic Engineer

**I. CALL TO ORDER:**

**II. ANNOUNCEMENTS:**

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

- Planning Commission Workshop items will be available online by Wednesday, May 13, 2020.
- The Comprehensive Plan Workshops will resume on Tuesday, May 12, 2020 and broadcasted on YouTube.

**III. APPROVAL OF MINUTES:**

Approval of the April 13, 2020 Planning Commission Meeting Minutes as amended:

**MOTION:** Commissioner Burns

**SECOND:** Commissioner Strawson

**VOTE: 3-0.**

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Approval of the April 20, 2020 Planning Commission Workshop Meeting Minutes as amended:

**MOTION:** Commissioner Burns

**SECOND:** Commissioner Strawson

**VOTE: 3-0.**

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**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.)

- A. **PC20-089FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Tire World**
- B. **PC19-1282FSI, Final Site Plan, Industrial Center East, Lot 339**
- C. **PC19-1283FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Industrial Center East, Lot 339**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the consent agenda.

**SECOND:** Alderman Russell

**VOTE: 3-0.**

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Commissioner Burns joined the hearing.

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**V. CONTINUANCES:**

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**VI. MISCELLANEOUS:**

**D. Planning Commission Rules of Procedures**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the Planning Commission Rules of Procedure.

**SECOND:** Alderman Russell

**VOTE: 3-0.**

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**VII. OLD BUSINESS: None**

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**VIII. NEW BUSINESS:**

**E. PC19-1114FSU, Final Subdivision Plat, South Street Centre**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the final plat (PC19-1114FSU), finding that the plan complies with all applicable criteria in LMC Section 507 and all other applicable regulations with the condition that:

1. Right-of-way encroachment agreements are executed for existing steps/stoops in the public right-of-way and that Note 9 be updated to include the recording reference for those agreements.

**SECOND:** Commissioner Burns

**VOTE: 4-0.**

**F. PC19-1120FSI, Final Site Plan, Waverley Elementary School**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification request to Section 607(g)(2), Parking Area Setbacks based on the analysis in the staff report and finding that:

1. The request is not contrary to the purpose and intent of the Code;
2. The request 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:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification request of Section 605(d)(2) and Table 605-1, Buffer Categories and Specifications, which requires a 6-foot wide, Level I landscape buffer in Area E shown on the site plan based on the analysis in the staff report and finding that:

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

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification of Section 605(d)(2) and Table 605-1, Buffer Categories and Specifications, which requires a 20-foot wide, Level III screening In Area G shown on the site plan based on the analysis in the staff report and finding that:

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

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification of Section 605(d)(2) and Table 605-1, Buffer Categories and Specifications, which requires a 20-foot wide, Level III screening In Area G shown on the site plan based on the analysis in the staff report and finding that:

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

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the final site plan (PC19-1120FSI), Waverley Elementary School, 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. Add a note on the plan stating that the final plat (PC 19-1121 FSU) will be recorded prior to building permit issuance;
2. Revise Sheet L-2.4 to indicate the date of the approval of the landscaping modifications by the Planning Commission;
3. Update Note #25 to indicate the date of the Planning Commission's approval of the forest conservation plan;
4. Add a note to the plan indicating the approval and date of the modification to Section 605(g)(2) for the access drive setback;
5. Submit the final Traffic Impact Study incorporating staff comments for City records;
6. Add a note to the site plan stating that during the improvement plan review process, the Applicant will work with the City to identify adequate means of access and turnaround on, or through, the site for City service vehicles and will execute any agreements or easements deemed necessary at that time;
7. Add additional bicycle parking positions as mutually agreed upon by staff and the applicant.

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**G. PC19-1121FSU, Final Subdivision Plat, Waverley Elementary School**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the final plat (PC19-1121FSU), finding that the plan complies with all applicable criteria in LMC Section 507 and all other applicable regulations with the following conditions:

1. Add a note stating that the property may be subject to a perpetual easement as found in Liber 781 Folio 693.
2. Add the Title Abstract number to note #6.

3. Add a note to Parcel B, PB100 P138 that this area is to be conveyed to the Board of Education of Frederick County by this plat.

**SECOND:** Commissioner Burns

**VOTE:** 4-0.

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**H. PC19-1122FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, Waverley Elementary School**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the approval of a modification to remove 11 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 Burns

**VOTE:** 4-0.

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the combined forest stand delineation and preliminary forest conservation plan (PC19-1122FSCB) for Waverley Elementary School finding that the plan complies with Section 721 of the LMC, with the following conditions:

1. Provide temporary fencing around the landscape credit area, label the wire mesh fence as temporary, and provide the chain link detail of the permanent fence;
2. Add a statement to the Woodland conservation area sign regarding the specimen tree sign to advise of violations;
3. Include in the inspections note that "if supplemental plantings are installed during the 2-year maintenance period, after the last installment of trees there need to be 2 years of survival to be met prior to release of bonds." Bonds will be surrendered after the 4th year if survival is not met;
4. Edit note to trim limbs along property line to state that the limbs are to only be removed up ten feet, and trees shall not be planted so close to endanger CRZ of adjacent trees that are to be saved as part of the existing buffer;
5. Revise the specimen tree summary on Sheet L-1.4 to indicate only those trees 25" in diameter or greater at breast height (dbh) and indicate the date of approval of the modification for removal by the Planning Commission.
6. Correct the case number in the title block to PC19-1122FSCB.

**SECOND:** Commissioner Burns

**VOTE: 4-0.**

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**I. PC18-189PSU/FSI, Combined Preliminary Plat and Final Site Plan, 800 E. Patrick Street**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve a modification to Section 606(b)(2) requiring that all lots front on a public street as documented in the staff report and in the Applicant's justification statement, finding that:

1. The Property size and limited amount of frontage are unusual conditions that make it impracticable or undesirable to insist upon strict adherence;
2. The provision of a 24' wide paved alley is consistent with the general purpose and intent of the regulation in that it provides adequate access for life safety and service vehicles, and
3. The modification is consistent with MGE Policy 1 of the Municipal Growth Element of the 2010 Comprehensive Plan.

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve of a modification to Section 605(f) for the provision of street trees along Franklin Street as documented in the staff report and in the Applicant's justification statement, finding that:

1. The trees cannot be provided without conflicting with utilities and pedestrian access and therefore, the request is not contrary to the purpose and intent of the overall Code;
2. The modification is consistent with MGE Policy 1 of the Municipal Growth Element of the 2010 Comprehensive Plan.
3. The provision of additional plantings on the site itself serves as includes compensating design so as to meet overall objectives of the particular requirement.

**SECOND:** Commissioner Strawson

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification to Section 605(e) for the required Level II landscaping buffer between the parking area and adjacent properties as documented in the staff report and in the Applicant's justification statement, finding that:

1. The modification will not be contrary to the purpose and intent of the Code in that the proposed units will front the alley creating a compatible streetscape adjacent to the existing residential properties;

2. The modification is consistent with MGE Policy 1 of the Municipal Growth Element of the 2010 Comprehensive Plan.
3. The provision of the public alley is a compensating design element that provides benefits to the adjacent property owners in terms of access and parking.

**SECOND:** Commissioner Strawson

**VOTE:** 4-0.

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve a modification to Section 607(e)(2) requiring that all parking area lighting be angled to contain light within the property boundaries as documented in the staff report and in the Applicant's justification statement, finding that:

1. The modification will not be contrary to the purpose and intent of the Code in that the minimum amount of light spillover will not generate adverse impacts but will provide adequate lighting along the alley;
2. The modification is consistent with MGE Policy 1 of the Municipal Growth Element of the 2010 Comprehensive Plan.
3. The pole height and fixture type to be provided are consistent with the residential character of the area and serve as a compensating design feature.

**SECOND:** Commissioner Strawson

**VOTE:** 4-0.

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve of the combined preliminary plat and final site plan for 800 E. Patrick Street, PC18-189PSU/FSI, finding that the plan complies with all of the applicable criteria of Articles 3, 4, 5, 6, 8 and 12 of the LMC, the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities, with the following conditions:

1. The plan must be revised to remove the Typical Driveway Apron for Single Family & Commercial Entrances and a standard curb opening with ADA accessible ramps must be shown at the intersection of the proposed public alley and Franklin Street with the details to be finalized at the time of improvement plan review.
2. A note must be added to the plan indicating that the Franklin Street facade of the townhouse on Lot 3 will have a masonry water table and that at least 15% of the area of that facade will be comprised of windows and/or entryways.
3. Note #21 must be revised to indicate the approval of the requested modifications, including the date of Planning Commission approval.
4. Note #10 must be revised to include the date of the exemption approval for the CAPF-R.
5. A note must be added to the plan stating the approval dates for the waterline, sewer line and school APFO certificates.
6. The Landscape Plan (sheet 2) must be signed and sealed by a registered Landscape Architect.
7. The Applicant must receive approval of the name for the public alley.
8. The Applicant must receive approval from the Mayor and Board of Aldermen for the fee-in-lieu of amount for parkland dedication.

**SECOND:** Commissioner Strawson  
**VOTE: 4-0.**

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**J. PC18-190FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, 800 E. Patrick Street**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the combined forest stand delineation and preliminary forest conservation plan PC18-190FSCB to pay a fee in lieu of mitigation in the amount of \$2,221.50, based on compliance with all applicable standards of Section 721 of the LMC with the following conditions of approval.

1. The project number in the title block be revised to PC18-190FSCB.
2. Note #6 be revised to remove reference to pending evaluation for a historic overlay as there is currently no such action pending.

**SECOND:** Commissioner Burns  
**VOTE: 4-0.**

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**K. PC19-889PSU/FSL, Combined Preliminary Plat and Final Site Plan, Bloomfields**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification to Section 601, Table 601-2 for the entrance spacing standards as depicted on the intersection spacing exhibit finding that:

1. The subdivision is subject to a Master Plan that is intended to provide community amenities connected by paths and sidewalks thereby providing pedestrian options for internal trips;
2. The modifications requested impact internal local streets and does not conflict with the general purpose and intent or the regulation, and
3. The modifications requested impact do not impact collector or arterial streets identified on the Comprehensive Plan.

**SECOND:** Commissioner Strawson  
**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the modification from Section 607(b)(1), Table 60-1 to modify the minimum number of parking spaces required for one-car townhouse units (VL-A and VL-B) finding that:

1. The modification is not contrary to the purpose and intent of Section 607 of the LMC in that the Applicant is providing two parking spaces per unit through the combination of on-site and offsite parking;
2. The modification is consistent with the Land Use Policy 8 of the 2010 Comprehensive Plan; and



3. The provision of parking in excess of the minimum required through additional offsite/on-street parking serves as a compensating design feature.

**SECOND:** Commissioner Strawson

**VOTE:** 4-0.

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Burns moved to approve the Bloomfields Section 1, Combined Preliminary Plat and Final Site Plan (PC19-889PSU/FSI), in accordance with all of the applicable criteria of Articles 3, 4, 5, 6, 8 and 12 of the LMC, the 2010 Comprehensive Plan, and that the site will be adequately served by public facilities, with the following conditions to be met:

1. Edit the Street Tree Spacing table to include a column for “required number of street trees” per street.
2. Add a note that “the Applicant shall work with the Engineering Department to remove trees from impacting the storm drains whereby still comply with requirement number of street trees per street.”
3. Correct the notes on Page 58 to address each applicable landscaping section: Section 605(c)(2), 605(d) Level I screening, and 605(f) for street trees.
4. Add to landscaping notes the number of trees to be planted in the HOA areas.
5. Revise Note #20 to indicate the correct dates that APFO certificates were issued and to indicate that restrictive covenants for age restricted housing in compliance with the exemption for school testing will be recorded prior to building permit approval.
6. Add a note to sheet 1 indicating that a site plan enforcement agreement will be executed prior to building permit issuance.
7. Revise the sheet numbers on the lower right-hand corner of each sheet to reference sheet 1 of 68, 2 of 68, and so forth.
8. Record a declaration or easement in the vicinity of the future Section 2 sidewalk stub on Sheet 4 so as to preclude any structures from obstructing access should there be an opportunity for a connection to Homewood path. Label the recording reference on the plan.
9. Label the areas not included in this plan review as Future Conceptual Design.
10. Update Note 11 (Annexation dates) and Note 25 (APFO approval dates) on Sheet 1.
11. Add a note to the plan indicating that during Improvement Plan review the applicant will work with the Engineering Department where possible to relocate any driveways that are less than 30’ from adjacent intersections.
12. Check all lot ids. Lot 11AB on Sheet 5 is shown as Lot 7AC on Sheet 6 and Sheet 7.
13. Relocate the sidewalk between Hammersmith Circle and Shortleaf Circle to between the lots and the private driveway parcels.
14. Revise the plan to show the proposed perpendicular parking off Lamplighter Lane and off Crown Point Circle should be outside of the public right of way.
15. Add note to the plan stating, “Coordinate design of the private section of White Ash Lane with DPW Operations at the time of Improvement Plan review and approval.”
16. Address the comments issued by the Frederick County Division of Utilities and Solid Waste Management (DUSWM) and receive approval from DUSWM.

**SECOND:** Commissioner Strawson

**VOTE:** 4-0.

**L. PC19-909PFCP, Preliminary Forest Conservation Plan, Bloomfields**

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the modification to Section 721(d)(2) to remove 93 specimen trees in compliance with Section 721 criteria finding that:

1. Denial of the modification would result in an unwarranted hardship with 70% of the specimen trees in the developable area;
2. Fifty-seven specimen trees need to be removed for road construction, which if enforced would deprive the Applicant of rights available to others;
3. Granting the modification does not give special privilege to the Applicant in order to develop the land;
4. The land is within the City's priority funding area and not a circumstance created by the Applicant;
5. The modification does not arise from a condition relating to the land or building use on a neighboring property but instead, the use of the property is consistent with the City's Comprehensive Plan and the intent that the Property be developed as a mixed-use development.
6. Sediment control and storm water management will meet State standards to protect water quality.

**SECOND:** Commissioner Burns

**VOTE: 4-0.**

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**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve the Bloomfields Preliminary Forest Conservation Plan (PC19-909PFCP), in accordance with LMC Section 721 with the following conditions to be met:

1. Lighten the type used for the development areas in order for the clearing areas to be shown more clearly.
2. Label all the retained, clearing, and planted areas clearly with which phase to be planted.
3. Revise the plan to show Protection Signage Fencing surrounding afforestation and retention areas consistent with the patterning shown in the legend.
4. Correct Forest Conservation Phasing Matrix to evenly distribute the retention acres across the phases and either evenly distribute the afforestation acres between the phases or to meet the amount of afforestation required per phase.
5. Add a note referencing the approval date of the modification to Section 721 for the removal of specimen trees.

**SECOND:** Commissioner Burns

**VOTE: 4-0.**

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**M. PC20-290ZTA, Text Amendment, Section 420, Carroll Creek Overlay District**

Eric Soter with Rodgers Consulting asked staff to consider allowing parking areas to be screened but not always with a masonry wall. He also asked for more flexibility with the use of building materials.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Strawson moved to approve a positive recommendation to the Mayor and Board of Aldermen for the proposed amendments to Section 420 of the Land Management Code, *Carroll Creek Overlay District*, as contained in the draft ordinance with the provision that staff modifies the language of subsection (C)(4)(a) to give flexibility in the use of building materials for the masonry wall and that these criteria are consistent with the criteria of Section 306 finding that the proposal is consistent with the criteria of Section 306 of the Land Management Code (LMC).

**SECOND:** Commissioner Burns

**VOTE: 4-0.**

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Meeting approximately adjourned at 9:15 pm

Respectfully Submitted,

Jessica Murphy  
Administrative Assistant

APPROVED 6/8/2020