

Planning Commission Hearing
Minutes
March 14, 2011

PC MEMBERS

Meta Nash
Alderman Russell
Josh Bokee
Elisabeth Fetting

PC MEMBERS ABSENT

Gary Brooks

STAFF PRESENT

Gabrielle Dunn-Division Manager for Current Planning
Jeff Love-City Planner
Brandon Mark-City Planner
Pam Reppert-City Planner
Devon Hahn-City Traffic Engineer
Scott Waxter-Assistant City Attorney
Carreanne Eyer-Administrative Assistant

I. Announcements:

Commissioner Nash announced that Commissioner Stoyke submitted a letter of resignation and she spoke for all the Commissioners that they are all sorry to lose his input and participation. Ms. Dunn said that a Certificate of Appreciation would be given to him for his services from the Mayor's Office. Alderman Russell added that Mr. Stoyke has been a longtime community advocate and she hopes that he would stay involve in other community affairs.

II. Approval of Minutes:

Approval of the February 14, 2011 Planning Commission Minutes as published:

MOTION: Alderman Russell.

SECOND: Commissioner Nash.

VOTE: 2-0. (Commissioner Fetting & Commissioner Bokee abstained)

Approval of the February 22, 2011 Planning Commission Minutes as published:

MOTION: Commissioner Fetting.

SECOND: Alderman Russell.

VOTE: 4-0.

Approval of the March 11, 2011 Preplanning Commission Minutes as amended:

MOTION: Commissioner Fetting.
SECOND: Alderman Russell.
VOTE: 3-0. (Commissioner Bokee abstained)

II. Election of Officers:

Commissioner Bokee nominated Commissioner Nash as Chairman; Commissioner Fetting seconded the motion with a 4-0 vote.

Alderman Russell nominated Commissioner Bokee as Vice Chairman; Commissioner Fetting seconded the motion with a 4-0 vote.

Commissioner Fetting nominated Alderman Russell as Secretary; Commissioner Bokee seconded the motion with a 4-0.

IV. 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".

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. New Business:

A. PC11-044ZTA-Zoning Text Amendment-Section 301-HPC Public Notice Provisions

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Paulus entered the entire staff report into the record. She stated that staff is proposing an amendment to the Notice Provisions in Section 301 of the Land Management Code by eliminating the 10 day public notice requirement for all Historic Preservation Commission (HPC) applications that qualify for Administrative Approval.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval to amend the Notice Provisions in Section 301 of the Land Management Code by eliminating the requirement to post a public notice sign for 10 days for HPC applications approved administratively only.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Bokee verified that this would bring the process from approximately 12 to 14 days to approximately 6 or 7 days for administrative approval. Ms. Paulus explained that staff would be hopeful that it could be even less than the 6 or 7 days.

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

There was no presentation given by the petitioner/applicant.

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:

Staff recommends approval to the Mayor and Board of Aldermen to amend the Notice Provisions in Section 301 of the Land Management Code by eliminating the requirement to post a public notice sign for 10 days for HPC applications approved administratively only.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee moved to recommend to the Mayor and Board of Aldermen PC11-044ZTA-Zoning Text Amendment-Section 301-HPC Public Notice Provisions.

SECOND: Commissioner Fetting

VOTE: 4-0.

B. PC10-453FSI-Final Site Plan-FCC Parking Garage

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting final site plan approval to construct a two to three-level (based on varying elevations), 345 space parking garage.

The Applicant is also requesting a modification to the required number of bicycle parking spaces per §607, Table 607-1 of the Land Management Code (LMC).

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended approval of a modification to Table 607-1 for a reduction of 22 of the required 28 bicycle parking spaces required based on the following:

1. The Applicant has provided six (6) bicycle parking spaces within the parking deck to promote bicycling during inclement weather.
2. The limited number of bicycle commuters to the campus as confirmed by FCC.
3. The number of available bicycle spaces already on campus.

Pending approval of the above modification, Staff recommended unconditional approval of final site plan PC10-453FSI.

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. John Anzinger with Proffitt & Associates introduced the team on the project and handed the presentation over to the Mr. John Mazelon, civil engineer with Fox & Associates, who indicated that they concur with the staff report.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Fetting questioned if the western entrance to the garage would only be used for emergency vehicles and why it wouldn't be used on a regular basis.

Mr. Mazelon commented that if traffic stacks up at the main ingress/egress entrance or if, a large event took place, they could open up that entrance as a secondary access to provide two ingress/egress accesses.

Commissioner Fetting asked the applicant as to why that entrance could not be open all the time.

Mr. Anzinger explained that access is going to be open and non-gated, so traffic should flow fairly freely and you won't have the back ups that you typically see when the gates are down and people don't have their tickets or cards. He said that the intent of having the access restricted is

for security concerns at the campus. If there was a large event such as graduation they could open that entrance up.

Mr. Anzinger presented the concept plan of the project. He stated that the college is proposing to construct a new parking garage on the southeast side of the campus adjacent to the conference building. Due to the growth of the college, the intent is to provide additional parking support in that area. He mentioned that depending on the grade, the structure is two to three levels. Mr. Anzinger showed the main ingress/egress off of the loop road and drive aisle/driveway leading to the conference building. He said the structure would accommodate 345 vehicles and 7 bicycle spaces internal. He explained the structural materials as precast concrete and veneer brick and that the design of the structure is different than most parking structures due to the punched openings. Mr. Anzinger summarized some of the other features that are incorporated into the facility including elements for capturing the rain water off of the roof and having a holding tank for the water that would then be used to help irrigate the playing fields and that the lighting system would be designed to accommodate daylight harvesting.

Alderman Russell clarified that while the applicant stated 7 bicycle parking spaces would be provided on the plan the applicant is committing to 6 spaces.

Commissioner Fetting commented to staff that if in the future if the college adds more buildings that would generate more trips if they could look at adding more bicycle racks at that time.

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 the Planning staff.

PLANNING COMMISSION ACTION FOR THE MODIFICATION:

MOTION: Commissioner Bokee moved to approve modification to Table 607-1 for a reduction of 21 of the required 28 bicycle parking spaces required based on the three criteria given by staff in the staff report.

SECOND: Commissioner Fetting.

VOTE: 4-0

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee moved to approve unconditional plan PC10-453FSI based on the recommendation given in the staff report.

SECOND: Commissioner Fetting.

VOTE: 4-0.

C. PC10-053FSI-Final Site Plan-Whittier Section 10

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Mark entered the entire staff report into the record. He stated that the proposed final site plan is part of the Whittier PND; Section 10 is the final section to be developed. The proposal consists of five (5) condominium buildings containing 12 units each, with 70 units total.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the modification from Section 13.02 of the 1986 Ordinance to allow for a parking area of more than 100 parking spaces to have only one access point on a public street due to the shape of the parcel and the surrounding open space that does not allow for more than one entrance to the property.

Staff recommends approval of the modification from Section 14.12(4) of the 1986 ordinance to allow for a residential parking space to be located more than 600 feet from a public street ROW due to the linear shape of the lot does not provide ample space to provide sufficient amount of parking and meet the requirements of Section 14.12(4).

Staff recommends approval of the modification from Section 11.05(3)(a) to allow for a Level I screening buffer adjacent to West Greenleaf Drive that does not meet the spacing requirements due to the entrance to the site and topographic challenges.

Staff recommends approval of the modification from Section 11.05(5) to allow for the screening of a portion of the parking lot adjacent to a residential district by using shrubs instead of the required plantings per 100 lineal feet due to a request from an adjacent property owner concerned of future encroachment from the plantings.

Staff recommends approval of Final Site Plan PC10-53FSI for Whittier PND Section 10 with the following condition to be met within:

Less than 60 days:

1. The Applicant must provide notes to indicate any modifications granted by the Planning Commission including the date in which they were approved.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Bokee asked when the original approval expired. Staff responded by saying it expired in 2006. Commissioner Bokee wanted to know if the City has a process in place for expired approvals. Ms. Dunn explained that under the previous administration there was an emergency extension granted to all development approvals, building permits, Zoning Board of Appeals applications, Historic Preservation applications, etc. that gave an extra two years to reflect the current economic conditions but that it did not apply to plans that were already voided before the emergency extension was granted. Ms. Dunn also wanted the Commissioners to keep in mind that the City's approval period for site plans is two years from the date of either the approval of the plan itself, or the allocation of water which ever comes later. Ms. Dunn said that applicants could come into the Planning Department and asks for a 6 month extension and that they could come in again and asks for another extension.

Alderman Russell asked if the parking lot would be a dedicated City street. Ms. Dunn said it is a private road which the HOA will maintain. It was mentioned that the City would be doing the trash collection.

Commissioner Nash wanted staff to state for the record the discussion between the County, Applicant and City. Ms. Dunn noted that the Applicant has constructed their plan in accordance with the approved plan and subsequent to the construction of it there was a sight distance issue identified by the County on Rocky Springs Road which is a County maintained road. The County felt that due to the crossing of the roads there was an inadequate sight distance available at that intersection and requested that the intersection be closed until something could be done with the road. There are temporary jersey barriers there today and when the Applicant brought this plan forward, staff wanted to take the opportunity to resolve this matter. Ms. Dunn stated that this is tied to the larger plan and master plan approval which staff and Applicant tried to work with the County for several months but have not come up with a compromise. Commissioner Nash asked staff if this plan was sent to the reviewing agencies. Ms. Dunn indicated that it was given to the all the agencies.

Commissioner Bokee asked how long has this plan been in the process. Ms. Dunn answered the plan was sent out to the reviewing agencies in March of 2010, but the submittal date could have been before the March date. Commission Bokee asked if the length of time that this plan has been in review is because of the traffic issue. Staff concurred.

On the landscape plan, Mr. Mark indicated that the Level I screen was reduced to shrubs. The letter from Ms. Shultz, Mr. Mark said, asked that the screening along her property line be reduced to shrubbery as well.

Regarding the traffic issue, Commissioner Fetting asked if the trips generated by this development could be handled without the Rocky Spring Road and Greenleaf entrance being open. Ms. Hahn believed that this was an annexation that was prior to other current codes and no traffic study was conducted at that time and she does not have any traffic volumes or the study to say how many trips have gone through this entrance versus the others entrances. She couldn't give a definite answer but mentioned there are houses up there now and vehicles are currently traveling through that subdivision to get to Christopher Crossing to exit. Commissioner Nash wanted the public to know that this Commission does not have the authority under the previous

zoning ordinance, which the Commission is tied to, to look at those issues. Ms. Dunn added that at the time the annexation was done it did limit off site improvements. She mentioned that annexation was done in 1988.

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

Mr. Jeremy Holder with Ausherman Development stated they are in agreement with staff recommendations for approval. He wanted the Commission to know that the subject site is constructed and complete except for a small portion of the parking lot which was deferred when they were doing the original construction because the City was utilizing that section as a staging area to construct a booster pumping station for their water facilities. He felt that they do not feel that the plan ever expired. He said the original submission was in February 2010. Mr. Holder explained the situation as to how the issue of Rocky Springs Road came up because the day they were building it the County implemented an access permit process which led to many meetings on site. He felt this issue should be resolved by the City and County. He commented that many County residents could benefit from the opening of Rocky Springs Road. He also wanted the Commission to know that the HOA will be maintaining the lighting, grounds of that parking area.

Regarding the landscaping along the adjoining property line, Mr. Holder noted that they are willing to work the neighbors to whatever extent necessary that meets the requirement of the Planning Commission. He felt the resolution may be the replacement of the current evergreen trees with evergreen shrubs. They are proposing the Otto Luken Laurel trees along Mr. Peppe's rear property line which is shown on the plan. He mentioned the other two adjoining properties are Mrs. Schultz and Mr. Gaber and they would treat them similarly and would hope for a resolution on what they would want us to do with this issue.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of the petitioner/applicant from the Planning Commission.

PUBLIC COMMENT:

Mr. Mike DeSimon resides at 2272 West Greenleaf Drive, stated his concern about the traffic coming through if they open the intersection. His concern also is the fact that if people come down the steep hill there maybe a sight distances issue. He felt that the County may have a valid reason as to not opening that road and that there are a lot of children who live in this area so it is a concern that he has opening that road. He also wanted to know how many units the developer is really proposing because there may not be adequate parking along the street. He also made the comment that when they purchased the home it was on a cul-de-sac and he wanted to know if it is not a cul-de-sac why he wasn't aware of that in purchasing of the home.

Ms. Donna Schultz resides at 8103 Rocky Springs Road, stressed that if Rocky Springs Road is opened up it would be a disaster. She mentioned that to date, cars come flying up that hill as it is. Ms. Schultz is also concerned about the landscaping because the trees that are on the plan would

be too big to plant with her measurements. She noted that there was an original plan that showed the Otto Luken Laurel and not sure why it has changed on this plan. She suggested that Mr. White's property be considered as well. Commissioner asked what would be the appropriate height for shrubs. Ms. Schultz commented that her fence is 4 feet and having the Otto Luken Laurel in because that would be consistent with Mr. Peppe's landscaping.

Mr. Peppe resides at 8025 Rocky Springs Road and indicated that originally, White Pines were to be planted in his area, but would request the Planning Commission permit shrubbery along the property line from the Gaber's property all the way to Mr. White's property. Mr. Peppe presented his plan of having the short shrubbery along the back side of all the properties.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

Mrs. Dunn answered Mr. DeSimon's questions and how many units would be presented and she said 14 units per building and the parking requirements would be two per unit and 143 parking spaces are permitted.

Commissioner Bokee assumed that the reason the County has the intersection closed is that the grading of the road, or that hill where vehicles are using that particular road. Ms. Dunn explained it was discussed to mitigate the sight distance issue through advanced notice, signage, or traffic control devices.

PETITIONER REBUTTAL:

Mr. Holder clarified the issue with Greenleaf and Rocky Springs Road that the County has taken into concern is the stopping distance on the south side of Rocky Springs Road. He mentioned that the reason the barricades are set the way they are and the way it is has been handled at this point and time, is the fire and rescue has insisted that the intersection be open and if it is not open and they need access at least to the point that they could have a fire hydrant connection. He reiterated that the intersection is now owned by the City and County and whatever they decide to do with that intersection Ausherman is in favor of whatever is decided.

Regarding the landscaping, Mr. Holder indicated that with the White property they are in favor of treating it the same as others.

Mr. Bokee wanted to know if having the shrubbery instead of Level 1 screening would be considered a condition. Ms. Dunn responded by saying the Commission would make a motion for a third condition pertaining to the landscaping.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from Planning staff.

PLANNING COMMISSION ACTION FOR MODIFICATION TO SECTION 13.02:

MOTION: Commissioner Bokee moved for approval of the modification from Section 13.02 of the 1986 Ordinance to allow for a parking area of more than 100 parking spaces to have only one access point on a public street due to the shape of the parcel and the surrounding open space that does not allow for more than one entrance to the property.

SECOND: Commissioner Fetting

VOTE: 4-0

PLANNING COMMISSION ACTION FOR MODIFICATION TO SECTION 14.12(4):

MOTION: Commissioner Bokee moved for approval of the modification from Section 14.12(4) of the 1986 ordinance to allow for a residential parking space to be located more than 600 feet from a public street ROW due to the linear shape of the lot does not provide ample space to provide sufficient amount of parking and meet the requirements of Section 14.12(4).

SECOND: Commissioner Fetting.

VOTE: 4-0.

PLANNING COMMISSION ACTION FOR MODIFICATION TO SECTION 11.05(3)(a):

MOTION: Commissioner Bokee moved for approval of the modification from Section 11.05(3)(a) to allow for a Level I screening buffer adjacent to West Greenleaf Drive that does not meet the spacing requirements due to the entrance to the site and topographic challenges.

SECOND: Commissioner Fetting.

VOTE: 4-0.

PLANNING COMMISSION ACTION FOR MODIFICATION TO SECTION 11.05(5):

MOTION: Commissioner Bokee moved for approval of the modification from Section 11.05(5) to allow for the screening of a portion of the parking lot adjacent to a residential district by using shrubs instead of the required plantings per 100 lineal feet due to a request from an adjacent property owner concerned of future encroachment from the plantings.

SECOND: Commissioner Fetting.

VOTE: 4-0.

PLANNING COMMISSION ACTION

MOTION: Commissioner Bokee moved for approval of Final Site Plan PC10-453FSI for Whittier PND Section 10 with the following:

Conditions to be met within 60 days:

1. The Applicant must provide notes to indicate any modifications granted by the Planning Commission including the date in which they were approved.
2. The landscape plan must be signed and sealed by a Landscape Architect.
3. The Applicant must amend and note the plan to allow for mixed evergreen shrubs along the

properties of Gaver, Peppe, Schultz, and White.
SECOND: Commissioner Fetting.
VOTE: 4-0.

D. PC11-052FSU-Final Dedication Plat-Get Go Convenience Store

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the Applicant seeks approval of a Final Plat for the Get Go Convenience Store project to dedicate 10' of right-of-way along W. 7th Street as a condition of their final site plan PC10-231FSI.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the request for site plan condition to be changed to require recordation of the dedication plat prior to receiving a building permit.

Staff recommends approval of the Final Dedication Plat for Get Go Station project PC11-52FSU, with one condition to be met:

In less than 60 days:

1. The 8" water main to 7th Street has already been capped and abandoned and should be labeled as abandoned.

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 with Weinberg & Miller stated that 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 SITE PLAN CONDITION:

MOTION: Commissioner Bokee moved to approve request for site plan condition to be changed to require recordation of the dedication plat prior to receiving a building permit as listed in the staff report.

SECOND: Commissioner Fetting.

VOTE: 4-0.

PLANNING COMMISSION ACTION FOR PC11-052FSU:

MOTION: Commissioner Bokee moved for the approval of final dedication plat for the Get Go Station project PC11-052FSU with the condition to be met in less than 60 days as listed in the staff report.

SECOND: Commissioner Fetting.

VOTE: 4-0.

E. PC10-458FSI-Final Site Plan-Liberty Professional Center

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the Applicant is requesting final site plan approval to redevelop 194 Thomas Johnson Drive, formerly the Antique Station, by demolishing 10,000 s.f. of the existing 35,000 s.f. building and converting the remaining 25,000 s.f. into professional/medical office space.

The Applicant is also requesting the following three (3) modifications:

♣ Section 605(e), Landscape Buffers and Berms - A Level I landscaping buffer (6' in width with 5 trees every 100') is required as lot line screening between General Commercial properties. The Applicant is requesting a modification to this requirement along the eastern property line based on the boundary of the existing parking lot.

♣ Section 607 Table 607-5, Minimum Off-Street Loading Spaces - Based on the use and square footage of the building, one large loading space (12 x 50) is required and the Applicant is instead requesting approval of a smaller 9'x20' space.

♣ Section 601(e), Minimum Number of Access Points - Parking areas of more than 100 parking spaces shall have at least one access to a public street and one access to an adjacent property. The Applicant is requesting to maintain and modify the one existing entrance.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the modification of Section 605(e), Landscape Buffers and Berms, to waive the Level I landscaping buffer (6' in width with 5 trees every 100') between the subject property and the adjacent BB&T property to the east, based on the existing parking lot location and accepting as compensation the increase in pervious surface, green space and trees on site.

Staff recommends approval of the modification of Section 607 Table 607-5, Minimum Off-Street Loading Spaces to reduce the one required large loading space (12 x 50) to the smaller 9'x20' space, as adequate size to support deliveries exclusively by small box trucks.

Staff recommends approval of the modification of Section 601(e), Minimum Number of Access Points, based on the provision of cross access easements and the impractical hardship of constructing a second access onto the public street.

Staff recommends approval of the Final Site Plan PC10-458FSI for Liberty Professional Center, with the following conditions to be met:

Within less than 60 days:

1. Correct NAC to #7 in General Note #2.
2. Provide dates of APFO certificate approvals in General Note #10.
3. Add to General Note #21 that the Site Plan Enforcement Agreement shall be executed prior to issuance of a building permit.
4. Correct Demolition Plan and Site Plan sheets to match proposed landscaping:
 - a. 6" spruce tree to remain near entrance and on adjacent property;
 - b. Two (2) pear trees near entrance and in sight triangles to be removed; and
 - c. 8" pear tree in existing island to be removed.
 - d. Show all trees along the west property line and rear of existing building to be removed and retained.
5. General note #14 should be revised to read: The final lighting plan shall be approved at the improvement plan stage to minimize lighting spillover to the adjacent property to the east and still maintain adequate security lighting for both properties.
6. Label the existing freestanding sign to be removed on all sheets.
7. Edit General Note #22 to state that the access easements shall be recorded prior to the improvement plan approvals and to eliminate reference to further alterations to the entrance at the time of improvement plan approval.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Fetting questioned how the contribution total \$39,995 is calculated.

Ms. Hahn, stated that they normally look at the trips generated by the development and divide that by the overall intersection trips during peak hours and then multiply that by the cost of the total improvement. She added that in this case it is a bit different because there is an established site there and an established use and we actually looked at the trip differential between what is there and therefore would be in the denominator.

Commissioner Fetting asked if there was an anticipated date to when the intersection of TJ and Opossumtown Pike would be fixed.

Mrs. Hahn replied that currently the State is wrapping up the final design plans for the project and should be finished up early spring. She added the State hopes to advertise in the fall and the City still needs to talk to figure how we are going to get everything in order to move forward with the project.

Commissioner Fetting questioned if the City has collected enough funds for its "share" from various developments along TJ Drive.

Mrs. Hahn stated that it will certainly offset some of the costs and that there is still a differential but the City is working on it.

Commissioner Bokee asked if the State has identified their construction funding for the bridge and has already been programmed and then the City's portion has not.

Mrs. Hahn stated that we haven't finalized it and still in discussion.

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

Mr. Chris Smariga with Harris, Smariga & Associates, concurred with the staff report; however, in regards to Note 22, that relates to access easements, he said instead of doing a blanket easement as discussed with BB&T on the east side, they would like to pick a location rather than just leave it wide open and will show on it the plan where they would propose that they connect at some point in the future.

Commissioner Nash asked staff if they would be okay with Mr. Smariga's request.

Mrs. Hahn commented that if they do, that can be with Engineering's approval as well with the location.

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:

Staff recommends approval of the Final Site Plan PC10-458FSI for Liberty Professional Center, with the following conditions to be met:

Within less than 60 days:

1. Correct NAC to #7 in General Note #2.
2. Provide dates of APFO certificate approvals in General Note #10.
3. Add to General Note #21 that the Site Plan Enforcement Agreement shall be executed prior to issuance of a building permit.
4. Correct Demolition Plan and Site Plan sheets to match proposed landscaping:
 - a. 6" spruce tree to remain near entrance and on adjacent property;
 - b. Two (2) pear trees near entrance and in sight triangles to be removed; and
 - c. 8" pear tree in existing island to be removed.
 - d. Show all trees along the west property line and rear of existing building to be removed and retained.
5. General note #14 should be revised to read: The final lighting plan shall be approved at the improvement plan stage to minimize lighting spillover to the adjacent property to the east and still maintain adequate security lighting for both properties.
6. Label the existing freestanding sign to be removed on all sheets.
7. Edit General Note #22 to state that the access easements shall be recorded prior to the improvement plan approvals and to eliminate reference to further alterations to the entrance at the time of improvement plan approval.
8. The proposed cross access easement for the property to the east, the BB&T property, to be graphically depicted on the final site plan subject to Planning and Engineering staff approval.

PLANNING COMMISSION ACTION SECTION 605(e):

MOTION: Commissioner Bokee moved to recommend approval of modification of Section 605(e) , Landscape Buffers and Berms, to waive the Level I landscaping buffer between the subject property and the adjacent BB & T property to the east, based on the existing parking lot location and accepting as compensation the increase in pervious surface, green space and trees on site.

SECOND: Commissioner Fetting.
VOTE: 4-0.

PLANNING COMMISSION ACTION SECTION 607 Table 607-5:

MOTION: Commissioner Bokee moved to recommend approval of modification of Section 607 Table 607-5, Minimum Off-Street Loading Spaces to reduce the one required large loading space to the smaller (9' x 20') space, as adequate size to support deliveries exclusively by small box trucks.

SECOND: Commissioner Fetting.
VOTE: 4-0.

PLANNING COMMISSION ACTION SECTION 601(e):

MOTION: Commissioner Bokee moved to recommend approval of the modification of Section 601(e), Minimum Number of Access Points, based on the provision of cross access easements and the impractical hardship of constructing a second access onto the public street.

SECOND: Commissioner Fetting.
VOTE: 4-0.

PLANNING COMMISSION ACTION PC10-458FSI:

MOTION: Commissioner Bokee moved to recommend approval for final site plan PC10-458FSI for Liberty Professional Center with the following conditions to be met in less than 60 days conditions 1-7 as noted in the staff report and added condition number 8 as read into the record by staff.

SECOND: Commissioner Fetting.
VOTE: 4-0.

F. PC10-457FSCB-Combined Forest Stand Delineation/Preliminary Forest Conservation Plan-Liberty Professional Center

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Ms. Reppert entered the entire staff report into the record. She stated that the Applicant seeks approval of a Combined Forest Stand Delineation and Preliminary Forest Conservation Plan for the Liberty Professional Center project. The Applicant is proposing to pay fee-in-lieu of the required .32 acres of planting equal to \$4,181.76.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the Combined Forest Stand Delineation and Preliminary Forest Conservation Plan (PC10-457FSCB) for Liberty Professional Center for the acceptance of a fee in lieu of payment totaling \$4,181.76, with the following conditions to be met:

Within less than 60 days:

1. Show the existing trees along the west property line and to the rear of the existing building with identification and size.
2. Show the five (5) trees cut around the SWM pond noted on the plan.

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. Chris Smariga with Harris, Smariga & Associates 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 Bokee moved to recommend approval of the Combined Forest Stand Delineation/Preliminary Forest Conservation Plan (PC10-457FSCB) for Liberty Professional Center for the acceptance of a fee in lieu of payment totaling \$4,181.76 with the 2 conditions to be met with in less than 60 days as read into the record by staff.

SECOND: Commissioner Fetting.
VOTE: 4-0.

G. PC10-455PSU-Preliminary Subdivision Plat-Zimmerman's @ Baker Park

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Mark entered the entire staff report into the record. He stated that the Applicant is requesting preliminary subdivision plat approval in order to re-subdivide nine existing lots into nine new residential lots. The proposal is to subdivide the properties so that the future single family dwelling units will front West 2nd Street with the majority of the lots having vehicular access from Calvary Alley.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of a modification from Section 605(f)(5) allowing the street trees to be planted between the sidewalk and the property line to provide for healthier trees with the condition that they are planted 4.5 feet from the sidewalk.

Staff recommends unconditional approval of the Preliminary Subdivision Plat, PC10-455PSU, based on compliance with Section 515 of the LMC and all other applicable regulations of the LMC.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Nash commended the Applicant for retaining the house on Lot 9. She added that at workshop, the Commission and the Applicant discussed a way to guarantee that the house, which has nonconforming setbacks based on today's code, could have the same set back as it has now in order to ensure the viability of the house. However, staff advised that the Planning Commission does not have the authority to do that at this subdivision stage that it would be at a building permit stage because there is not site plan on residential lots. So the Planning Commission will not see this again it will go to staff to review for building permit. Commissioner Nash stated that the Planning Commission would support when staff reviews the flexibility for the viability for the existing house.

Commissioner Bokee concurred with Commissioner Nash.

Mrs. Dunn stated the Applicant did approach staff about applying for a modification for the setbacks at subdivision time to reflect the existing nonconforming situation of the house and to allow for future expansion that would be consistent with that nonconformity. She stated that under the subdivision regulations the Planning Commission does not have the authority to modify the setbacks and that under Section 606, this is evaluated at building permit.

Commissioner Bokee asked if under the LMC if staff can only consider a modification at building permit or is it an interpretation.

Mrs. Dunn replied that it is an interpretation. It does not say specifically that at the time of building permit approval however, if a modification were to be granted to the entire property line without some sort of proposal, granting a modification could be contrary to the purpose of the intent of the code. She added that in exercising that modification authority staff has found it to be practical to do it when we have a proposal to evaluate.

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

Mr. Holder with Ausherman stated that he concurred with the staff report.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Nash asked if the chimney on the property would be retained.

Mr. Holder replied no, it is not intended to be retained.

Alderman Russell asked how we can ensure that the property owner won't cut down the trees that are near the sidewalk .

Mr. Holder responded that a covenant could be place when they create the architectural standards to make sure the trees remain. He added that they are street trees by code and thinks the City has the authority to make sure they remain.

Mrs. Dunn stated that they will be in the City public right of way. In addition, The State of Maryland has a roadside tree law that requires any tree in a public right of way to go through a removal permit process that goes through DNR.

Commissioner Nash questioned the line of evergreens behind the adjacent property owner rear property line.

Mr. Holder replied that the bulk of the evergreen screening is on our property but that the will be meeting with Mrs. White (adjoining property owner) to figure out a resolution for that screening. He stated that it is her desire to keep it and it is not his desire to remove it. He added the challenge they have when we create a perpetual scenario to deal with something that isn't a perpetual feature and how does the maintenance get addressed and how do we make sure that we are good neighbors but ultimately making sure that it works long term for both property owners.

PUBLIC COMMENT:

Ms. Jan Bradstock who resides at 11 East 3rd Street questioned if the homes will single family homes or duplexes and if they will build of brick.

Ms. Linda Gerard who resides at 402 Rockwell Terrace asked that when construction is taking place and the alley that will be used gets damaged, if it will be resurfaced because it is not in currently in good condition.

PETITIONER REBUTTAL:

Mr. Holder responded that regarding the architecture that their goal is to create homes that are custom homes that are built for the unique needs of the individual that will purchase those homes. However, it is very important to reflect the architecture that is similar to that on Rockwell Terrace and 2nd Street. He added that brick is a very prominent feature, stone, porches are features as well. But beyond that each home is unique. Mr. Holder stated that a commitment has been made to the community is to make sure that they are involved in the architecture approval of each of the homes. Mr. Holder added regarding the alley we have not had a discussion with the Engineering Department yet but figure we would have to overlay the alley.

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 PER SECTION 605(f)(5):

MOTION: Commissioner Bokee moved to recommend approval for modification from Section 605(f)(5) allowing the street trees to be planted between the sidewalk and the property line to provide for healthier trees with the condition that they are planted 4.5 feet from the sidewalk.
SECOND: Commissioner Fetting.
VOTE: 4-0.

PLANNING COMMISSION ACTION PC10-455PSU:

MOTION: Commissioner Bokee moved to recommend unconditional approval of the Preliminary Subdivision Plat, PC10-455PSU, based on compliance with Section 515 of the LMC and all applicable regulations of the LMC.
SECOND: Commissioner Fetting.
VOTE: 4-0.

H. PC10-454FSCB-Combined Forest Stand Delineation/Preliminary Forest Conservation Plan-Zimmerman's @ Baker Park

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Mark entered the entire staff report into the record. He stated that the proposed combined Forest Stand Delineation and Preliminary Forest Conservation Plan is being reviewed in conjunction with Final Preliminary Subdivision Plat, PC10-455PSU, for the re-subdivision of

nine lots known as the Zimmerman Property, located at the intersection of West2nd Street and College Avenue.

The Applicant is proposing to mitigate the resulting forest conservation requirements for the 2.27 acre property by paying a fee-in-lieu of afforestation.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the combined Forest Stand Delineation and Preliminary Forest Conservation plan for the payment of fee in lieu of totaling \$4,443.00.

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. Holder 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 Bokee moved to recommend approval of the combined Forest Stand Delineation/Preliminary Forest Conservation Plan for the payment of fee in lieu of totaling \$4,443.00 per the staff report and comments entered in the record this evening.

SECOND: Commissioner Fetting.
VOTE: 4-0.

Mrs. Dunn made a brief statement that this evening was Commissioner Fetting's first meeting on the Commission again and welcomed her return to the Planning Commission.

Meeting adjourned at 8:15 P.M.

Respectfully Submitted,

Carreanne Eyer
Administrative Assistant