

Planning Commission Hearing

Minutes

April 11, 2011

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash	Elisabeth Fetting	Joe Adkins-Deputy Director for Planning
Alderman Russell	Gary Brooks	Zack Kershner-Deputy Director for Engineering
Josh Bokee		Gabrielle Dunn-Division Manager for Current Planning
		Jeff Love-City Planner
		Tim Davis-Transportation Planner
		Scott Waxter-Assistant City Attorney
		Carreanne Eyer-Administrative Assistant

•I. **Announcements:**

II. **Approval of Minutes:**

Approval of the **March 14, 2010** Planning Commission Minutes as amended:

MOTION: Commissioner Bokee.

SECOND: Alderman Russell.

VOTE: 3-0.

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

MOTION: Commissioner Bokee.

SECOND: Alderman Russell.

VOTE: 2-0. (Commissioner Nash abstained)

Approval of the April 8, 2011 Pre-planning Commission Minutes as amended:

MOTION: Commissioner Bokee.

SECOND: Alderman Russell.

VOTE: 3-0.

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".

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IV. Public Hearing-Consent Items:

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(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.)

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V. **CONTINUANCES:**

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•A. **PC10-410-Final Subdivision Plat-Frederick Airport Park**

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PLANNING COMMISSION ACTION:

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MOTION: Commissioner Bokee moved to continue PC10-410FSU for 60 days until the May hearing.

SECOND: Alderman Russell.

VOTE: 3-0.

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VI. **MISCELLANEOUS:**

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•B. **FY2012 Consolidated Transportation Plan (MDOT)**

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INTRODUCTION OF CASE BY THE PLANNING STAFF:

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Mr. Davis stated that the Transportation Priorities Review includes all modes of transportation facilities reviewed annually. While the scope of this review encompasses short and long term priorities, recommendations focus on the next fiscal year (FY12) priorities.

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INITIAL PLANNING STAFF RECOMMENDATION:

In light of the current economic conditions; lack of Federal Reauthorization for Transportation and Aviation, and the three consecutive years of funding deferrals at the state level, a conservative list from each category is recommended. Any changes from these recommendations are welcomed and will be carried forward to the Mayor and Board of Aldermen.

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PLANNING COMMISSION QUESTIONING OF STAFF:

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Mr. Davis noted that the one area where City and County staff disagree with regards to the recommended priorities is with regards I-270/MD85 interchange project. Both the City and County have supported that the Phase I of the improvements to the I-270 interchange reconfiguration, however, City staff recommended that Phase II, covering the area between to the interchange and Guilford Drive, funding be provided first because it provides the biggest benefit to the City as it is one of the ways that traffic is directed from I-270 into the City. The County has supported Phase III which is the section of roadway from Crestwood Blvd. to south of English Muffin Way because there are escrow funds available from the developers in that section of the roadway. Commissioner Nash questioned why eastbound on 70 would not be directed to exit at East Street because that seems to be more of a direct route to downtown rather than getting caught in the traffic by Wal-Mart and Lowes.

Mr. Davis stated yes, this would be a more direct route and that there has been discussion regarding this. He added that longstanding state and federal policies, state that you don't direct someone from an interstate highway to another interstate highway to get off and that is why 85 was the directed route.

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Sidewalks

Commissioner Nash asked about the sidewalks on Rte 26 and if those will be wide enough bicycle and pedestrian lane sidewalks.

Mr. Davis replied no and that the State will build them 5 ½ feet wide which is the standard for sidewalks.

He added there isn't anything on the City's Shared Use Path Plan that calls for shared use paths on Rte 26 and neither does the County. Mr. Davis said he would be more than happy to make request to the State that they be the 10 foot wide sidewalks.

Commissioner Bokee stated that there has been discussion that there is no funding revenue for the large projects and asked Mr. Davis to estimate what the success rate has been for these smaller projects for funding the last couple of years even with the cuts in State funding.

Mr. Davis replied they have been minimal. In instances with the State, it's not necessarily an issue of projects being cut, but more of an issue of a lot of the things being deferred. He noted that the City has been successful in completing projects in the last year or so that including the remaining sidewalks on the Golden Mile with a 50/50 funding match with the State. Other smaller projects have been left to the district level.

Commissioner Bokee asked if the City is in a position to be able to enter into a 50/50 match with regards to the streetscape, sidewalk, and Shared Use Path projects.

Mr. Davis replied that the funding is very narrow. There is some monies left in the CIP to finish the piece of the Shared Use Path in Baker Park.

Airport

Mr. Davis announced that the Frederick Municipal Airport has been designated by the AOPA as the most female friendly airport in the world.

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PUBLIC COMMENT:

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There was no public comment.

PETITIONER REBUTTAL:

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There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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There was no discussion or questions for staff from the Planning Commission.

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RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

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There were no restatement/revisions from planning staff.

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PLANNING COMMISSION ACTION:

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MOTION: Commissioner Bokee made a positive recommendation based on the presentation to forward to the Mayor and Board of Alderman the Annual City Transportation Priorities Review.

SECOND: Alderman Russell.

VOTE: 3-0.

•C. **Presentation of the City's Capital Improvement Program (CIP)**

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INTRODUCTION OF CASE BY THE PLANNING STAFF:

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Mr. Zack Kershner presented a PowerPoint slide outlining the proposed DRAFT FY2012 CIP that included 3 columns: the FY11, FY12 and the FY12 wish list, which include projects that are 5+ years out. Mr. Kershner explained that in looking at the slide, if a project was listed in FY11 and not in the FY12 column, than that project has either been completed or has been taken off the list. The spreadsheet makes it relatively easy to read and see where the projects use to be in FY11 are now either in FY12 or FY12 wish list and if there are any that are missing he will try to answer as many questions as possible.

Bridges

Commissioner Bokee commented that the FY12 Opossumtown Pike/TJ Drive intersection improvements are critical and that for the record he wanted to stress the importance of trying to keep that in as funding in the timeline and the same with the wish list for Yellow Springs Road/Tuscany Drive improvements as well as Walter Martz Road improvements.

Mr. Kershner provided updates on each of those projects. With regards to the Opossumtown/TJ there is an estimate for ROW acquisition and staff has been working on a draft MOU with SHA. That MOA is still in negotiations at the Staff level and the goal is to bring it before the Mayor and Board of Aldermen in the next month or so for approval. He added that there is enough monies in the budget to purchase the ROW. He stated that the City would like to go forward with construction with SHA at the same time they do the Motter Avenue Bridge. Mr. Kershner stated that Walter Martz and Yellow Springs have been added to the wish list because there is not City funding planned, however funding has been received from various developers and adding it to the wish list is place holder to hold that money in and knowing that those projects are important.

Commissioner Nash questioned the line item noted as the Gas House Pike/Monocacy Blvd intersection?

Mr. Kershner stated that it is the section of roadway in front of the golf course that was completed about a year in a half ago and that it remains in the CIP because as Riverside Corporate Park develops, certain monetary contributions are owed from that development per a DRRRA (Developer Rights and Responsibility Agreement). He stated that it is similar to the City forward funding the improvement so the line item is a place holder to put that money back in as the City recoups that money as the development builds out.

Commissioner Nash questioned the section of Gas House Pike near Schley Farm.

Mr. Kershner stated that is the piece that is under construction right now and that is still in the FY12 CIP and construction will be completed at the end of this calendar year.

Commissioner Nash how far in will that come in on Gas House Pike?

Mr. Kershner replied that is the 1st phase and when you get to the new intersection of Monocacy Boulevard and Gas House Pike it will be tied into existing Gas House Pike to the east and west. He noted that it won't take out the bad turn in front of the waste water treatment plant, that that would be in the next phase as you head toward the river.

Roadside Infrastructure

Mr. Kershner stated that everything in FY11 has been kept in FY12 and there are some additional roadside infrastructure. He added that they have added traffic calming back in to the wish list and that there is no funding for it right now but they wanted to keep a place holder for that. He noted that there is an established SOP for handling traffic calming requests and currently residents are taken through that process.

Aldermen Russell stated the last traffic calming project completed was in West Brook, on Fairview Avenue, which included the installation of speed humps and asked if other requests had been placed in the last 3 years?

Mr. Kershner stated that there have been had quite a few requests in the downtown area and many of those have not met the standards that warrant improvements. That in going through the process and looking at the speed data, often times it is not hitting the percentile of those going over the posted speed limit to warrant traffic calming.

Parks

Mr. Kershner stated that most of the parks have stayed the same as in FY11 and that it appears that the Comprehensive Park Rehab may not be a part of the operating budget. He noted that Culler Lake has been pushed out to the wish list.

Commissioner Nash commented that she thought the Carroll Creek Linear Park was off the list.

Mr. Kershner commented that no, it is still showing in the FY12 CIP. He isn't sure what the funding level would be for that and that consideration is being given to potentially perform some of the services in house as an in kind match.

Water/Sewer

Mr. Kershner indicated that most of these projects are the same and that some of them have been completed. He added they have tacked on the Butterfly Lane improvements which include the realignment of Butterfly Lane through Hargett Farm.

Commissioner Nash questioned if that would be the sewer for the northern annexations.

Mr. Kershner replied no, that it is the ENR upgrades that are mandated by MDE which is a rather large project that we are working with MDE on grant and loan funding.

Commissioner Nash asked if there was anything in the CIP that would support the annexations.

Mr. Kershner stated that the City has committed to the 1st phase of the City/County, joint sewer study that is under way right now. Any improvements in that system would presumably be the responsibility of the developments that would utilize those improvements.

Commissioner Bokee asked what the time table for completion is.

Mr. Kershner said the 1st phase is due to be completed by the end of spring/early summer and it is going to identify the pinch points in the whole system.

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Airport

Mr. Kershner stated that most of the airport has moved into FY12 and I know some of it has been completed and other pieces are pushed out into the wish list.

PUBLIC COMMENT:

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There was no public comment.

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PLANNING COMMISSION ACTION:

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MOTION: Commissioner Bokee move to recommend the priorities list for the CIP both the FY12 as well as the FY12 wish list as presented in the packet as well as presentation for discussion.

SECOND: Alderman Russell.

VOTE: 3-0.

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•D. **Presentation of Forest Conservation Annual Report**

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INTRODUCTION OF CASE BY THE PLANNING STAFF:

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Mrs. Dunn stated that this item is the review of the 2009-2010 Annual Forest Conservation Report as submitted to the Department of Natural Resources (DNR)

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INITIAL PLANNING STAFF RECOMMENDATION:

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The forest reports are for information only and no vote is required by the Planning Commission.

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PLANNING COMMISSION QUESTIONING OF STAFF:

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With regards to the exemption for infill development that has been eliminated by the State and as mentioned in the staff report, Commissioner Nash asked if it would be a further disincentive to redeveloping existing properties in an urban environment and what authority the City has to change it or if it is a change that needs to occur at the State level.

Mrs. Dunn replied that it is a change that is necessitated by the State regulation and that the City could not add in an exemption that the State did not have. She added one of the things that the City does have authority over is the ability to work with the State on looking for alternatives in terms of meeting those forest conservation requirements. So if a project is subject to the regulations, landscaping credits which are more appropriate in a lot of urban instances are often appropriate Mrs. Dunn added that there is flexibility and some of the changes that have been reviewed with the LMC is to expand those opportunities.

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PUBLIC COMMENT:

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There was no public comment.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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There was no discussion or questions for staff from the Planning Commission.

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PLANNING COMMISSION ACTION:

The forest reports are for information only and no vote is required by the Planning Commission.

VII. NEW BUSINESS:

E. PC11-041PSU-Preliminary Subdivision Plat-Market Square

INTRODUCTION OF CASE BY THE PLANNING STAFF:

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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 preliminary subdivision plat for the Market Square Mixed Use project. (PC09-281PSU), which was approved on December 14, 2009. The master plan for the project was recently amended on February 14, 2011 (PC10-415MXU).

The revision specifically affects Lot R-4 (Land Bay 3 of the Master Plan), which was approved as multi-family and proposed for 180 units with structured parking. The Applicant has re-designed this lot for commercial use; the type of which has yet to be determined.

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INITIAL PLANNING STAFF RECOMMENDATION:

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Staff recommended approval of PC11-41PSU with the following conditions:

To be met in less than 60 days:

- 1. Update note 1 with the master plan revision unconditional approval date.
- 2. Revise note 9 to indicate 284 residential units per the approved master plan.
- 3. Remove the street tree plantings from former Osprey Way South and revise the planting schedule accordingly.
- 4. Revise the phasing schedule to include the following:
 - Phase I -
 - o Complete a portion of Wormans Mill Road from MD 26, past Cormorant Place.
 - o Construct Mill Pond Road and other related on-site streets within the Phase I project area.
 - o Phase II improvements excluding the on-site streets must be approved and bonded prior to the issuance of occupancy permits for Phase I commercial buildings and up to 29 residential units.
 - Phase II -
 - o Widen eastbound approach of MD 26 at Monocacy Blvd. to provide separate right-turn lane.
 - o Widen westbound MD 26 approach to Monocacy Blvd. to provide additional capacity (to align with recently constructed third westbound lane by Clemson Corner on MD 26)
 - o Widen northbound Routzahn Way to provide additional left-turn lane.
 - o Construct other related on-site streets within the Phase II project area.
 - Phase III -
 - o Construct other related on-site streets within the Phase III project area.

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PLANNING COMMISSION QUESTIONING OF STAFF:

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Commissioner Bokee asked why the proposed language for condition #4 on the phasing wasn't addressed at the Field Trip meeting.

Mr. Love replied that it was included in the master plan staff report which was approved and was part of the approved traffic study however, in working with the Engineering Department, felt like a note stating it on this plan would help to formalize it.

Alderman Russell asked if Mr. Love could explain why this project is exempt from ADA and Fair Housing.

Mr. Love stated that if the dwelling units do not include any elevators and they are multi-story units then that is what exempts them out. If it was ground level then they would be required to conform to the ADA requirements or if they had an elevator in the building all the units would have to be convertible to the ADA requirement.

Mrs. Dunn added that these issues are typically reviewed at the building permit stage, but by virtue of revisions to the lot layout and how the dwelling units were arranged on one lot verses individual lots, the question of if the units were now deemed a multi-family structure as opposed to the 2 over 2 units, townhouse units was raised.

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

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Mr. Dave Lingg, Lingg Property Consulting concurred with the recommendations and the staff report.

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PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

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

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PUBLIC COMMENT:

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There was no public comment.

PETITIONER REBUTTAL:

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There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

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There was no discussion or questions for staff from the Planning Commission.

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RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

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 - o Construct other related on-site streets within the Phase II project area.
 - Phase III -
 - o Construct other related on-site streets within the Phase III project area.

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PLANNING COMMISSION ACTION:

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MOTION: Commissioner Bokee moved to recommend approval of PC11-041PSU with the following 4 conditions as provided by staff to be met in less than 60 days and as read into the record, and noted concurrence with the clarification with regards to the 29 units that was brought up in the testimony tonight.

SECOND: Alderman Russell.

VOTE: 3-0.

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F. PC11-104ZMA-Zoning Map Amendment-Frederick Alliance for Youth-Hillcrest

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Mrs. Dunn stated that the applicant was not present.

Mr. Scott Waxter, City Assistant Attorney, stated that, in the absence of any personal appearance by the petitioner, the Commission may proceed to dispose of the matter on the record or may continue a specific item to another date. He stated that it is up to the Commission to determine whether or not they feel it appropriate to proceed this evening and hearing the staff report without the ability to question the applicant or if they would prefer to wait to have the first of the two hearings until the applicant is present to be able to respond to any questions or concerns the Commission may have. He noted that staff had not been contacted by the applicant as to why they present

Staff noted that the Applicant was given all information pertaining to the date and time of the hearing and that Staff had even met with the Applicant the previous week to provide them with a copy of the staff report.

Commissioner Bokee stated that he did not feel it would be in the interest of the applicant if the Commission were to proceed.

PLANNING COMMISSION ACTION:

MOTION: Commissioner Bokee recommended continuing the zoning map amendment PC11-104ZMA to the next hearing.

SECOND: Alderman Russell.

VOTE: 3-0.

Meeting adjourned at 7:10 P.M.

Respectfully Submitted,

Carreanne Eyer

Administrative Assistant