

Planning Commission Hearing Minutes October 10, 2011

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash Alderman Russell Elisabeth Fetting Josh Bokee Gary Brooks Rick Stup		Gabrielle Dunn-Division Manager of Current Planning Joe Adkins-Deputy Director for Planning Matt Davis-Division Manager of Comprehensive Planning Brandon Mark-City Planner Carreanne Eyler-Administrative Assistant

I. ANNOUNCEMENTS:

II. APPROVAL OF MINUTES:

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

MOTION: Commissioner Brooks.

SECOND: Commissioner Bokee.

VOTE: 5-0.

Approval of the **September 12, 2011** Planning Commission Hearing Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Bokee.

VOTE: 5-0.

Approval of the **September 19, 2011** Planning Commission Workshop Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Nash.

VOTE: 3-3. (Alderman Russell, Commissioner Bokee, Commissioner Fetting abstained.)

Approval of the **October 7, 2011** Pre-Planning Commission Minutes as amended:

MOTION: Commissioner Brooks.

SECOND: Commissioner Fetting.

VOTE: 4-1. (Commissioner Bokee abstained.)

III. PUBLIC HEARING-SWEARING IN:

“Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth.” If so, answer “I do”.

IV. PUBLIC HEARING-CONSENT ITEMS:

(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present – Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda. If you would like any of the items below considered separately, please say so when the Planning Commission Chairman announces the Consent Agenda.)

A. PC10-410FSU-Final Subdivision Plat-Frederick Airport Park Subdivision

MOTION: Commissioner Bokee moved to approve PC10-410FSU Frederick Airport Park Subdivision.

SECOND: Commissioner Brooks.

VOTE: 5-0.

V. NEW BUSINESS:

B. PC11-377FSI-Final Site Plan-McDonalds Restaurant

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Mark entered the entire staff report into the record. He stated that the Applicant is proposing to demolish the existing McDonald's Restaurant located on the Golden Mile at 1275 West Patrick Street to construct a new McDonald's restaurant. In addition, landscaping will be added to the site and drive aisles and travel ways more clearly defined through the addition of curbing and striping.

The Applicant is also requesting two modifications to Section 605 of the Land Management Code (LMC) entitled, *Landscaping Standards*, specifically:

1. Sections 607(g) (5), Table 607-6–Level I screening requirement for loading areas abutting a commercial or industrial district lot line.
2. Section 605(e), Table 605-3 - Level I buffer requirement for all lot lines that abut to a General Commercial District.

Lastly, the Applicant is requesting approval of the architectural elevations in accordance with Section 863, *Shopping Center and Big Box Stores*.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of a modification to Sections 607(g)(5), Table 607-6 which requires Level I screening for loading areas abutting a commercial or industrial district lot line based on the configuration of the loading area.

Staff recommends approval of a modification to Section 605(e), Table 605-3 which requires Level I buffer for all lot lines that abut to a General Commercial district based on the location of utilities and the partial screening provided by the masonry dumpster enclosure.

Staff recommends approval of the architectural elevations in accordance with Section 863, *Shopping Center and Big Box Stores*.

Staff recommends conditional approval of Final Site Plan PC11-377FSI with the following conditions to be met:

Conditions to be met in less than 60 days:

1. The Applicant revise the site plan to extend the drive-thru lane south past the main entrance by painting and marking as well as change the drive-thru directional arrow to curve towards the north instead of the west.

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. Carmen DiDiano, McIlvried, DiDiano & Mox, LLC, stated that they concurred with the staff report and wanted to address issues with the sidewalk because the site is so tight there is only an 8 foot 6 inch buffer between parking on the east side and the main driveway. The installation of the 5 foot wide sidewalk would leave 3 foot 6 inches. Allowing the overhang for the cars restricts us with providing a safe buffer between the main driveway and the shopping center and our parking. He added that there are some safety issues and feel that the sidewalk coming from West Patrick Street to the building provided the safest and most convenient. It does meet the ADA requirements. He concluded that they request the Planning Commission to approve the sidewalk as McDonalds had proposed it.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Fetting asked how many parking spaces the McDonalds lot currently has.

Mr. DiDiano stated that there are about 70 parking spaces right now that is being reduced to 33 with the installation of the landscaping and that the drive thru lane is significantly improved with the side by side.

Commissioner Nash asked if the only "Golden Arch" sign will be on the brick.

Mr. DiDiano replied that there are 2 "Golden Arches" on the building and there are 2 signs that say "McDonalds" on the building. He stated there are also 2 logo arches on the 2 entrance/exit signs.

Commissioner Brooks asked that if sidewalk was terminated at the entrance-way on the east side and brought into the unit itself and then use the existing sidewalk down the right hand side of the building that is proposed would the site still exceed the impervious surface.

Mr. DiDiano stated yes.

Commissioner Nash asked what the reasoning was for the seeded area, the steep bank coming down to the site in grass; it would be hard to mow.

Mr. DiDiano responded that currently that topographical features exists and the only real grading that needs to be done in that front landscape area is a little bit of grading around the sidewalk to get the 5% running slope and if anything we have flattened it out.

Alderman Russell stated that if the sidewalk would go down along the curb as intended- parallel with the entrance-way,-it would lose a parking space but it would shuttle people right across where the handicap spaces are and it would accomplish them coming right into the shopping center. She feels that it would be much more user friendly if at the junction, there was a right angle.

Mr. DiDiano stated that our concerns are for safety, the main driveway is a lot more congested compared to where we proposed it, the other concern is if we end the sidewalk at that point we still have no discernable path to the shopping center door.

Commissioner Nash asked if, on the new plan, there is striping for pedestrians for the remaining area of the shopping center.

Mrs. Dunn replied that not beyond the site from the sidewalk to the building as proposed.

Commissioner Nash asked if the striping would be removed along lease line on the inside of the striped pedestrian path.

Mr. DiDiano responded beyond that driveway, yes and it will be turned into a landscaped island.

Mr. John Einberger, McDonalds, stated that the sidewalk we are proposing would run the whole length of the McDonalds side of the building. It doesn't end at the doorway, but it continues beyond that to back where the drive thru area is.

Commissioner Brooks stated that this type of building and layout is geared more for drive thru operation. He stated that the Commission has worked hard on the Comprehensive Plan to get the connectivity and would strongly suggest that the sidewalk up near Patrick be constructed to at least the entrance to the site and then cross through the handicap area so you can continue through and to lose 1 parking space isn't that big of an impact.

Commissioner Fetting asked if something stronger than striping for the pedestrian connection could be done across the back of the site to connect to where a future road may be.

Mr. Einberger commented that they could do some type of stamped pavement.

Alderman Russell stated that she has concerns about directing the pedestrians across the drive thru when we know cars are coming around the turn.

Mr. Einberger stated that the drive thru is a very controlled traffic movement and will have traffic control signage.

Commissioner Stup added that he wasn't sure what the lease agreement with the owners says but maybe an option to fulfill the intent of the Comprehensive Plan and that area would be in granting an easement for the future sidewalk to be constructed by others on the other side of the drive thru so, if and when, the shopping center comes in they can't say they can't put anything there because it is in the lease area. He asked the applicant if they would be willing to add that as a sidewalk easement.

Mr. Einberger responded that they have had a lot of discussion with the shopping center owners to bring the site plan to where we are tonight and we have had to make some tremendous changes to the back of our site to make sure we minimize the impact on the existing shopping center. Primarily, since it is their shopping center they are obligated to their uses that are under lease under their roofs too and can't commit to that and it would be difficult to have the landlord to understand that offsite easement.

Mrs. Dunn stated that she has concerns because it is all one parcel, if it were separate lots and the idea of the applicant being responsible to grant an easement on their property at this time, that would be different but since it is the leased area it seems that it is issues within the lease document itself.

Commissioner Bokee stated that the plan is a vast improvement and to generate any of these true connections that we have discussed the center itself will have to redevelop.

Commissioner Nash asked if there was a way to document our interests in recognizing the constraints of this site and the inability to provide the pedestrian walk on the west side. Is there a way to put it in writing?

Mrs. Dunn replied that there wouldn't be any harm in sending a letter to the existing property owners.

Mr. Adkins stated that Mr. Mark is going through, block by block, the properties of the Golden Mile and listing the constraints and one of the solutions for this block would be to state that interest. If the shopping center redevelops they will have to provide ADA all the way to the buildings. He added that we could send a letter to the property owner informing them of the Planning Commissions intent.

PUBLIC COMMENT:

There was no public comment.

PETITIONER REBUTTAL:

There was no petitioner rebuttal.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

Commissioner Brooks stated that the Planning Commission should require the sidewalk to go down to the main entrance.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

To be met within 60 days:

1. The Applicant revise the site plan to extend the drive-thru lane south past the main entrance by painting and marking as well as change the drive-thru directional arrow to curve towards the north instead of the west.
2. To revise the site plan to include a stamped-concrete pedestrian crossing south of the building and between route 40 and also north of the building near the driveway access and providing the appropriate pedestrian safety signage.

PLANNING COMMISSION ACTION PER SECTION 607 (g) (5):

MOTION: Commissioner Bokee moved to approve modification to Section 607(g)(5), Table 607-6 which requires Level I screening for loading areas as read into the record by staff and in the staff report.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION PER SECTION 605 (e):

MOTION: Commissioner Bokee moved to approve modification to Section 605(e), Table 605-3 which requires Level I buffer for all lot lines that abut to a General Commercial district as read into the record by staff and in the staff report.

SECOND: Commissioner Brooks.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR ARCHITECTURAL ELEVATIONS:

MOTION: Commissioner Bokee moved to approve the architectural elevations in accordance with Section 863 Shopping Center and Big Box Stores as read into the record by staff

SECOND: Commissioner Fetting.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR CASE PC11-377FSI:

MOTION: Commissioner Bokee moved for conditional approval of Final Site Plan PC11-377FSI with the 2 conditions 1) The Applicant revise the site plan to extend the drive-thru lane south past the main entrance by painting and marking as well as change the drive-thru directional arrow to curve towards the north instead of the west. 2) To revise the site plan to include a stamped-concrete pedestrian crossing south of the building and between route 40 and also north of the building near the driveway access and providing the appropriate pedestrian safety signage to be met in less than 60 days.

SECOND: Commissioner Fetting.

DISCUSSION: Commissioner Bokee stated that he has concerns with the sidewalk going all the way down to the entrance and with the stamping of the concrete because the whole site is not pedestrian friendly.

Commissioner Brooks concurred that this plan is much better but that in the spirit of the LMC and the connectivity, he felt that there is an opportunity worth losing one or two parking spaces to make work and that he felt they were walking away from this opportunity.

Commissioner Nash feels the impact on this small parcel and what will or will not be able to be done is worse than delaying the major pedestrian off of Route 40 when the balance of the center comes in. She added she would rather hold out for the quality then to piece this together and it still not meet the purpose.

VOTE: 4-1. (Commissioner Brooks opposed)

C. PC11-379FSCB-Combined Forest Stand Delineation & Preliminary Forest Conservation Plan-McDonalds Restaurant

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 Site Plan PC11-377FSI for the demolition and renovation to the McDonald's restaurant, located at 1275 West Patrick Street.

The Applicant is proposing to mitigate the resulting forest conservation requirements by paying fee-in-lieu.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommends approval of the combined Forest Stand Delineation and Preliminary Forest Conservation plan and payment of fee in lieu of plantings in the amount \$1,997.60.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Bokee asked if the funding for the off-site planting could be utilizing street trees.

Mrs. Dunn responded correct, for street trees for larger forest planting.

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

Mr. Carmen DiDiano, MDM, LLC 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 approve PC11-379FSCB and payment of fee in lieu of plantings in the amount \$1,997.60.

SECOND: Commissioner Brooks.

VOTE: 5-0.

D. East Frederick Rising

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Adkins stated this is an update and our next area of concern and that we will be doing a small area plan for that area. He wanted input from the Planning Commission as to where to begin the small area

plan for EFR. He added that EFR comprises about 1,200 acres which is the size of Area A and B of Fort Detrick, has the airport on the border, Riverside development to the north, downtown Frederick to the west and I70 to south. Mr. Adkins stated that areas of consideration could be the South Street Corridor, East Patrick Street, or along Monocacy Boulevard next to the airport. He would like to get EFR's recommendations and bring those to the Planning Commission for their recommendations to move forward.

Mr. Bob McCutcheon, Vice President of EFR, feels that this is a unique opportunity to do things right and the idea of starting with a small area plan to redevelop an area is ideal.

INITIAL PLANNING STAFF RECOMMENDATION:

There is no recommendation needed at this time.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

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

The City was applicant so no presentation was given.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Nash asked if sections like the South Street Corridor would be chapters of the EFR plan and if there will there be subsets.

Mr. Adkins responded that there was going to be a small area plan for each one of the mentioned areas. The visioning plan that was approved doesn't deal with specifics and that Staff finds that to try and create a plan for the entire area would be very difficult because it is a very diverse area.

Commissioner Nash asked if there was any benefit with the Brick Works coming in with a cohesive development plan to wait for that to come forward and then bring the South Street to connect to that or do the area around so that when they do come forward they can plug in.

Mr. Adkins stated that is the reasoning why we proposed the East Street Corridor going from Monocacy Village Shopping Center to South Street because 1) there is movement of properties on the north end by Monocacy Village that want to start developing 2) the Brick Works eventually will be coming in as well. It seems like a good place to start from staff point of view.

Mr. Stup stated he agreed with staff except for the specifics from a concept standpoint haven't been identified around the airport and feels that is a real opportunity and should be quickly looked at. He added that both the east and the west should be looked at together at the same time but hit hard on the east.

Commissioner Bokee stated that making sure critical parcels such as the Brick Works that we are not waiting to see what they are going to bring forth. The best redevelopment seems to occur when all the major private parcels are right there locked in along with public resources and building on that.

Mr. McCutcheon stated that they have a developer outreach group as well as working with the Chamber of Commerce and Frederick County to reach all of the contractors and developers that would be involved with these things.

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 of staff from the Planning Commission.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION:

This was for informational purposes and no recommendation is needed at this time.

E. Golden Mile Small Area Plan

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Davis gave an update on the Golden Mile. He stated that they have been working on this since early 2010 and the plan will include 7 principles to frame design and redevelopment which are as follows:

- a) Walkable – not only practical to walk, but enjoyable
- b) Connected – street network and transportation opportunities, access to adjacent properties
- c) Vibrant – public spaces, office, retail and residential feed off each other
- d) Safe – not only uniformed police presence but better design allowing people to “feel” safe, CPTED – Crime Prevention Through Environmental Design
- e) Complete – integrated, various uses complement one another
- f) Attractive – landscaping, signage, facades etc.
- g) Sustainable – public/private partnership which will ultimately facilitate public improvements – i.e., Golden Mile Alliance (template for future SAP’s as well)

Mr. Davis stated that what has come out of the workshop are 3 general development scenarios which are:

- 1) Aesthetic improvement - better sign and landscaping regulations, façade improvements, improved connections to residential communities, and some open space opportunities realized through those connections.
- 2) Infill development – develop more pad sites while incorporating the suggestions of Scenario I and creating an interior road to parallel U.S. 40 (Main Street, Boulevard) to promote more multi-story buildings to form city streetscape (Preferred Development Outcome in draft plan).

- 3) Maximum development – very intensive, structured parking, much more massing of buildings, 30 year or more build-out.

He added that there will be development checklist which will include:

- 1) A “bridge” between the Golden Mile Plan and any updates to the Land Management Code.
- 2) Non-regulatory way to get the Commission and developers to begin thinking about and acknowledging the Plan and goals.

He concluded that the plan is to have a draft to the Planning Commission by the end of November as well as the NACs and the Golden Mile Alliance.

INITIAL PLANNING STAFF RECOMMENDATION:

There is no recommendation at this time.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

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

City was applicant, no presentation was given.

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:

This was information only so no recommendation is needed at this time.

F. Land Management Code Updates

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mrs. Dunn entered the entire staff report into the record. She stated that this is to discuss the potential amendments to the Land Management Code (LMC) and to solicit feedback from the Planning Commission.

INITIAL PLANNING STAFF RECOMMENDATION:

No recommendation is needed at this time as Staff has not proposed specific text amendments. In response to feedback provided, Staff will move forward with individual applications for each.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Nash asked if when the State of Maryland was doing smart growth/smart codes if they focused on planning types such as infill development.

Mr. Adkins stated that they did have models for infill development and large municipalities do have some type of infill development where they only have to comply with certain sections. Infill development caused the most concern with the LMC and another area of concern is those sections dealing with subdivision review. He added that he doesn't believe that the State still has the model guidelines, but we do have quite a few larger municipalities that have them and we could use them to start the process.

Commissioner Bokee asked that the possible text amendments that come forward, is it possible to get a timeline that staff is comfortable with that we could be looking towards having some of these come up to the Planning Commission and start moving forward.

Mrs. Dunn responded sure and feels the infill discussion is top priority and in terms of process in Article 3 with the site plan and even Article 5 the final plat could probably bring something to workshop in the next month or so.

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

City was applicant so no presentation was given.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

There was no questioning of the Petitioner/Applicant from the Planning Commission.

PUBLIC COMMENT:

Mr. Andrew Dipasquale, Miles & Stockbridge, expressed his concerns regarding the parkland dedication requirements and stated that he is hoping this will be a city sponsored amendment. It would be of benefit for future institutional uses in the city focusing closely on the parkland dedication requirement. Section 608 of the LMC stipulates 1,000 sf per dwelling unit be dedicated to the city as parkland. He added that when you look at Homewood's plan that was conditionally approved the entirety of the 100 acres that came through the Planning Commission included 34.63 acres onsite of active and passive parkland to serve its residents. Mr. Dipasquale stated that if the Planning Commission could look at a reduction of the

square foot requirements per dwelling unit within institutional type uses. He feels that it is critical and in a critical time path.

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:

This was information only so no recommendation is needed at this time.

G. Sustainable Communities

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Adkins stated that this is to combine the sustainable tax credit that was done for historic structures and for the sustainable communities' tax credit that was created. After looking at The Department of Housing and Development website it seems like most of the applications that were submitted were for historic areas. He added that with talking with the State and he was envisioning several areas going forward at the same time. He would like to table this until next month to provide further information.

INITIAL PLANNING STAFF RECOMMENDATION:

There is no recommendation needed at this time.

PLANNING COMMISSION QUESTIONING OF STAFF:

There was no questioning of staff from the Planning Commission.

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

City was applicant, so no presentation was given.

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:

This was information only so recommendation is needed at this time.

Meeting adjourned at 7:55 p.m.

Respectfully Submitted,

Carreanne Eyler-Administrative Assistant

APPROVED 11-14-2011