

**Planning Commission Hearing Minutes
January 9, 2012**

PC MEMBERS	PC MEMBERS ABSENT	STAFF PRESENT
Meta Nash Josh Bokee Alderman Russell Elisabeth Fetting Gary Brooks Rick Stup		Gabrielle Dunn-Division Manager of Current Planning Joe Adkins-Deputy Director for Planning Jeff Love-City Planner Devon Hahn-City Traffic Engineer Scott Waxter-Asst. City Attorney Carreanne Eyler-Administrative Assistant

I. ANNOUNCEMENTS:

Commissioner Nash announced that the Planning Commission would hear the Worman's Mill master plan application and then the site plan before the subdivision plan.

II. APPROVAL OF MINUTES:

Approval of the **December 12, 2011** Planning Commission Meeting Minutes as amended:

MOTION: Commissioner Bokee.
SECOND: Commissioner Brooks.
VOTE: 4-1. (Commissioner Fetting abstained)

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

MOTION: Commissioner Brooks.
SECOND: Commissioner Bokee.
VOTE: 4-1. (Commissioner Nash abstained.)

Approval of the **January 6, 2012** Pre-Planning Commission Meeting Minutes as amended:

Minutes will be approved at the January 23, 2012 Planning Commission Hearing.

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.)

V. OLD BUSINESS:

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

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the entire staff report into the record. He stated that the Applicant was requesting approval for a revision to the previously approved Master Plan for the Worman's Mill Planned Neighborhood Development (PND).

He noted that the Applicant was requesting the following modifications under the 1986 Zoning Ordinance:

1. A 12' street setback from the face of curb for nonresidential and mixed uses within the Village Center as permitted under Section 16.10.5.
2. A 0' side setback for those nonresidential and mixed uses that abut parcels within the Village Center as permitted under Section 16.10.5

Additionally, he noted that the Applicant was also requesting that under the authority granted by Section 910(e) of the Land Management Code (LMC), that the Planning Commission authorize the use of the Section 410(e)(1) of the LMC regarding dimensional and density standards within a PND for the multifamily dwelling units in the Village Center in order to grant the following:

1. A 12' street setback from the face of curb for multifamily uses in accordance with 410(e)(1) of the LMC.
2. A zero (0') setback along adjoining property lines of parcels within the Village Center as permitted under Section 410(e)(1) of the LMC.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff supported the requested 12' street setback from the face of curb and 0' side setback for parcels that abut other parcels identified as part of the Village Center for nonresidential and mixed uses within the Village Center as permitted under Section 16.10.5.

Staff supported the proposed setbacks for multifamily structures in the PND as follows: front/street - 12' from face of curb, side- 20' and rear - 40' with a 0' side setback along those property lines which directly abut other parcels identified as part of the Village Center with the Planning Commission support of the use of Section 410(e) as requested by the Applicant in accordance with the standards of Section 910(e),.

Pending approval of the above modifications, Staff recommended unconditional approval of master plan PC11-493PND.

PLANNING COMMISSION QUESTIONING OF STAFF:

Commissioner Nash stated there has been discussion as to what authority the Planning Commission has to utilize some of the Land Management Code (LMC) to modify the plan which has been reviewed under the 1986 Ordinance and if the Commission has the authority to use sections of the current LMC. She added that the Planning Commission does not conduct legal interpretation of the code and deferred to Mr. Scott Waxter, Assistant City Attorney, to summarize the issue briefly.

Mr. Scott Waxter stated that Staff looked at an issue brought forth by attorney Ms. Leslie Powell of whether or not the Planning Commission has the authority to transfer of density in excess of 10% in

accordance with the 1986 Zoning Ordinance. He noted that the 1986 Ordinance specifically said that the Planning Department has authority when a transfer is less than 10%, but did not express authority in the language of what would occur for request over 10%. After researching the issue he stated his belief was that if the Planning Department is not authorized to approve a transfer of density of over 10%, then the Planning Commission has the inherent authority to review the matter of a change of density over 10%.

Commissioner Nash stated that the last time the master plan was revised, the Planning Commission recommended to the Mayor & Board the abandonment of Village Square Road and they deliberated the issue based on the plan that was presented at the time. She asked if that request should have to be reconsidered on the basis of the revised plan provided.

Mrs. Dunn stated that the Mayor & Board had approved that abandonment on the facts presented at that time and that the approval still stands. She added that there is no request to reintroduce the abandonment with the Mayor & Board.

Commissioner Nash asked if the plan didn't go forward would it revert back to the original right of way.

Mr. Waxter responded that the road is abandoned now and moving on as if that road were nonexistent.

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

Mr. Scott Miller, Weinberg & Miller, stated that tonight's request for approval is to amend the master plan to allow the Applicant to proceed with a certain design that is set forth in the site plan. He stated that they plan to present the case tonight on all three applications before the Commission in a combined fashion.

Mr. Ed Wormald, Wormald Development Companies, and Mike Wiley, Piedmont Design Group, gave a brief update on changes that were made to the master plan since the approved 2009 plan: updating land bays in Mill Island, transfers of units, updating some of the land uses, requests for modification, and the architectural renderings.

Mr. Wormald concluded that they are trying to fulfill the original vision for the community and believe it is the right proximity and proportion of retail and residential uses.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Nash asked if the Applicant was requesting a zero lot line between the park and the residential building that abuts the park.

Mr. Wiley stated that residential building is set back 25 feet from the property line. One of the features on that plan is a porch which is part of the foundation but the main façade is 25 feet from the lot line. The zero foot setbacks are only necessary between the retail and the residential building off of Merchant Street.

Commissioner Nash stated that she didn't see any vinyl siding except on the domiciliary care facility and can see altering stone, brick, stucco. She wanted more clarification.

Mr. Glen Tipton, Brown, Craig & Turner Architects stated that in lieu of stucco there is cementitious panel that is very similar to stucco in appearance.

Commissioner Nash asked what type of buffer was being provided between Weaver Alley and the parking lot for building C.

Mr. Wiley responded for clarification that Weaver Alley is parallel to Merchant Street and there is an existing Leland cypress hedge and one area there that they will supplement in the southeast corner and that there will be a 6 foot board-on-board fence on the parking lot side of the hedge.

Commissioner Bokee asked if the assisted living building would be considered low or high profile.

Mr. Wiley stated it would be considered high profile. He noted that the designation doesn't only refer to the land use but also the permitted height of structures.

PUBLIC COMMENT:

Tom Gill of 251 Waterside Drive stated that Mr. Wormald wants to change some of the plan that was originally proposed. He said if the developer sold 2/3 of the units and wants to make a major change he is effectively changing what I bought into. He added that the LMC does not permit this.

Katie Phillips of 2203 Parish Lane distributed a letter and stated that a concern of hers is the siren noise that could go off any time of night and the impacts that would have on her, living across from an assisted living. She stated that parking and the sirens are a concern and feels this is not a proper place for a facility like this to be built.

Joan Grauman of 2471 Five Shillings Road stated she wanted to clarify something Mr. Wormald had said. That he had 135 signatures of support, however that were prior to this change and design. That was for the restaurant that was going to be attached to an apartment building that people could walk into but that has changed and is no longer valid. She added that the gazebo area will be considered a private park and is surrounded by brick which will be a part of the apartment buildings. She feels that the new plan is not inviting to the community. She concluded that the people of the community bought into a plan that was completely different than what is being presented.

Dan Grauman of 2471 Five Shillings Road stated that the applicant has 4 different websites pertaining to Worman's Mill and the most recent website states that there will be restaurants, café's, shops, bank, salon, dry cleaner, in home CNA or RN care, medical offices, fitness and retail. Mr. Grauman stated that the site does not mention anything about what is being proposed.

Bob Logan of 2592 Bear Den Road presented the Commission with a petition with 193 names that oppose the master plan as it is being presented and read the petition into the record and requested that the Planning Commission deny the plan.

Chris Izzo of 2474 Five Shillings Road stated that he is a supporter of the Concerned Citizens of Worman's Mill. He is concerned about the traffic that will come through in the morning hours and feels that really should be looked at. Mr. Izzo also has a concern with parking. Residents feel they are forced to park on the street because it is very difficult to get 2 vehicles inside the garage and he feels all the parking should be on site for this development. Another concern is the 6 foot board-on-board fence and he feels that the proposed location could kill the trees that are there and feels that is an important consideration.

Bob Landry of 2442 Merchant Street stated that when he bought his home in 1996 there was no indication in the PND that the Village Center proposed at that time would be replaced by a 171 unit apartment

complex with an 80 bed domiciliary care facility that would dominate the Village Center. He added that they respectfully urge the Planning Commission to preserve the integrity of the PND for Worman's Mill and not approve the major changes being proposed by the applicant.

Leslie Powell of the Law Office of Leslie Powell stated that the concerned citizens are not opposed to the development with respect to the Village Center but have concerns with how this is being done and what has happened over the years. This is not what the citizens have been waiting for; what they want is what was consistent with the original plan. She added that this is a brand new plan and needs to be treated like a new plan. She stated that the Planning Commission has no ability under the 1986 Ordinance to grant this wholesale modification to this plan. She strongly urges the Commission to consider the propriety of the application and the code that is used in considering it and feels it doesn't work under either code. She concluded with a request that the Planning Commission deny the application and stated that if the Commission is inclined to consider it she asked that they do so carefully and consider the criteria proposed.

Shirley Richardson of 2623 Monocacy Ford Road stated that she supports the Village Center plan and has been looking forward to this.

Leland Robinson of 2608 Monocacy Ford Road stated that he supports the Village Center plan.

Richard Pelicano of Five2486 Five Shillings Road stated that he is opposed to this plan because of density of the apartment complex.

Dick Metzner of 2500 Waterside Drive stated that he likes the mixture town/country and the type of varied architecture that is part of Frederick.

Lee Burkner of 2223 Village Square Road stated that he is in favor of a plan, just not this plan. He said he doesn't object entirely to this plan, but he does feel that the applicant is trying to fit too much into a small area and really objects to the assisted living facility.

Karen Levins of 2631 Island Grove Blvd stated that her concern is that the Village Center was supposed to be this beautiful place that people could come to. She doesn't understand why the assisted living facility and other buildings are being put in the middle of the property. There are edges of the property that have not been built yet and asked why not build out on the perimeter with those 3-4 story buildings.

Donna Logan of 2592 Bear Den Road asked anyone opposed to the plan to stand up.

Dennis Eagen of Mill Island stated that they were promised a nice village center and it should not be changed at the last minute. He is opposed to the project.

Christopher Archer of 3037 Arbor Square Drive stated that it isn't that they don't want a village square center or that they don't want various stages of lifestyles to come in, but he feels that the Applicant is trying to do too much and are changing a little bit too much of the schematics. He said that he doesn't feel that the applicant has a true sense of the community at heart and that the community is looking to the Commission for some sort of reason to a middle ground.

Drexel Ryberg of 2205 Garden Lane stated that the plan proposed is not acceptable to him or his wife.

Scott Shephardson of 2213 Parish Lane stated that the Commission needs to look at the long term effects of what will be happening.

PETITIONER REBUTTAL:

Mr. Miller stated that the legal staff for the City is clearly well reasoned and correct when it comes to the transfer of density. If you look at the 1986 Ordinance it was an amendment to the original ordinance which gave staff the ability to make changes up to 10%. It was adding additional flexibility to the PND concept. He said that there has been a lot of discuss regarding excess and what is currently approved for this village center is 63,000 s.f of commercial. He noted that they have reduced this plan down to 27,000 s.f. of commercial and there is still concern of excess. He stated that they have added 49 units above what is currently approved for this and in terms of impact on a village center it means less demand for parking and less traffic generation. Traffic generated by this proposal is less. Mr. Miller stated that the architecture is consistent throughout the center. He feels that this center, if allowed to move forward will appear consistent with, if not better, from an architectural stand point than what is already there.

Mr. Wormald stated that they have a lot of information with them to answer the Planning Commission's specific questions. He stated the entire purpose of this project is to create a quaint place to enhance the lifestyle of the Worman's Mill residents and to create resort style retail. It is as small as it can get and still be viable in their opinion. Mr. Wormald added they decreased the height of the building from 4 stories to 3 story and feels they have gone to lengths to decrease the intensity of this compared to what was previously envisioned.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

With regards to the request to use the provisions of the LMC, Commissioner Nash asked staff what they suggest; if the Planning Commission finds that one of the modifications meets the criteria for Section 910(e) and should they state so at the beginning and then invoke that section.

Mrs. Dunn replied that if you have general discussion, the Commission should consider as a whole on how that setback provision and allowing the modification of that setback along the front property line either does or doesn't meet those criteria. In making the motion to approve the 12' setback and zero foot interior property line setback or to not approve it, the Commission would want to s make findings on those three criteria.

Commissioner Nash stated that she would support the consistent 12' setback to maintain that pedestrian feel and viability within the Village Center.

Commissioner Fetting doesn't think it is incongruent with Worman's Mill and that it definitely consistent with what a village center looks like.

Commissioner Bokee concurred and in terms of the 12' setback, that one of the justifications when we were looking at the 2009 plan was because of the feel and the pedestrian nature of it. He added that the content is consistent.

Alderman Russell feels that the project does meet the all the criteria for the recommendations.

Commissioner Brooks stated that the Commission keeps pushing for this certain look and feel. He doesn't see the setback being an issue.

Commissioner Nash commented on the request for the zero setback for the commercial building and residential building. She thinks it maintains a continued streetscape consistent with what was just referenced. She also stated that another issue with the master plan is under land use the transfer of dwelling units.

Commissioner Bokee commented that he would like to defer to City legal staff and concurs with their opinion and relies on that for the Commission's authority for transfer of units.

Commissioner Fetting asked if the Commission was deciding on the actual number or just on the concept of moving the units and if there are some issues with some site plan specifics which may end up in fewer units if that's possible. So when we discuss the transfer of units, it is the concept or actual number we have to discuss.

Mrs. Dunn replied that with the previous master plan, the land bays were designated with a maximum number of units but then they are subject to the further site plan approval. She stated that as you move through the planning process it's not always possible to maximize the total number of units approved for the PND, in this case 1,497,. That the maximum density is a factor of the density that was permitted under the old code and the amount of land that was available. She added that in assigning that density it is still subject to the site plan approval process.

Mr. Waxter said that the Planning Commission is able to review a transfer of units and greater than 10%.

Mrs. Dunn commented that transferring a certain number of units does not abdicate the need to comply will all of the other provisions of code.

Commissioner Nash asked if the majority of the commissioners were not in favor of the transfer of units that would just stop things.

Mr. Waxter replied that if there was a majority that is not in favor of the transfer of units, then he suggests not worrying about the modifications.

Commissioner Bokee asked how the institutional use figures in as far as unit transfers involved and what the requirements are if that institutional is approved.

Mrs. Dunn stated those are uses unto themselves and not classified as residential single/multi-family/townhouse and they don't have the same anticipated impact. They are grouped more as a commercial use.

Commissioner Brooks asked Devon Hahn, City Traffic Engineer, if she concurs that this will generate less traffic trips for the development.

Mrs. Hahn responded that there is a reduction in the retail and therefore, there is a reduction in the trips, 30% in the morning and around 40% in the evening, and that she concurs that this will generate less trips.

Alderman Russell asked how traffic considerations are made relative to the domiciliary use as oppose to a residential use in terms of traffic generation.

Mrs. Hahn replied that the City follows the Institute of Traffic Engineers manual which categorizes these uses as different from residential. In an assisted living facility, trips are based on the number of beds you have where typically, with the single/multi-family it is based on the square footage of the building.

Commissioner Bokee expressed concerns with the transfer of density. He knows everyone wants to arrive at the best plan and thinks the Wormald Companies is presenting a very strong plan but the concern with the 171 units combined with the activity of an assisted living unit and having both of those uses which together normally would be strong as a plan but have concerns on the site and if it can support it.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION TO SUPPORT SECTION 410(e) IN ACCORDANCE WITH STANDARDS OF SECTION 910(e):

MOTION: Commissioner Brooks made a positive recommendation in accordance with the standards of Section 910(e) that supports the use of Section 410(e) for the setbacks for multifamily structures in the PND as follows: front/street-12' from face of curb, and 20' rear-40' with a 0' side setback along those property lines which directly abut other parcels identified as part of the Village Center with the findings that the 3 requirements are consistent with the Comprehensive Plan.

SECOND: Alderman Russell.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR 12' STREET SETBACK & 0' SIDE SETBACK:

MOTION: Commissioner Brooks moved for a positive recommendation for the requested 12' street setback as under Section 16.10.5 for the 12' setback from the face of the curb, the 0' side setback for the parcels that abut the other parcels identified as part of the Village Center for nonresidential and mixed uses within the village center.

SECOND: Commissioner Fetting.

VOTE: 5-0.

PLANNING COMMISSION ACTION FOR PC11-493PND:

MOTION: Commissioner Brooks moved for the unconditional approval of master plan PC11-493PND.

SECOND: Commissioner Fetting.

DISCUSSION: Commissioner Fetting stated that if we approve this we can still change the height or reduce the number of units in the site plan.

Mrs. Dunn replied that the maximum height will establish a maximum to which they would be permitted. They would still need to comply with all the other regulations in place.

Commissioner Nash asked if they meet the other regulations and the Commissions finds that it is incompatible with the neighborhood if that could still be possible

Mrs. Dunn stated you have established the 60' and it becomes more difficult to deny them that maximum height. They can document that they comply with everything else. In any zoning district there is a maximum that is set.

Commissioner Stup asked if the motion could be amended to add a condition with regard to Block H, Parcel A that it is compatible with the neighborhood.

Mr. Waxter stated that you are establishing that it is compatible if you set a maximum height.

Mrs. Dunn said that you could add a condition to the master plan that said maximum height on Block H, Parcel A can't exceed "X" number of feet or a domiciliary care facility can't exceed "X" number of feet.

MOTION WITHDRAWN BY COMMISSIONER BROOKS

Commissioner Brooks asked the applicant if the building has to be three stories.

Mr. Wormald responded that they are prepared to talk about the assisted living facility but assisted facility operators look for about 60-80 beds to be an ideal size. Below that you have inefficiencies with operations. He stated that perhaps, the height on Parish Lane could be lower or the building could be kept to 50' instead of 60'.

Alderman Russell said the proposal could be that the vertical plane of the assisted living building would be no higher than the actual physical height of the townhouses on Parish Lane directly across from it.

Mr. Waxter stated advised if the Commission is to set a height that it be for the height for the entire parcel rather than one side of a parcel.

Alderman Russell asked if the condition could be that the vertical plane of the building not exceed the height of the tallest townhouse on the adjoining streets.

Mr. Love responded that Staff doesn't have that actual height available as part of the plan. He stated that there are low profile buildings all around that parcel which have the a maximum height of 40'. His suggestion would be that in keeping with the master plan, the parcel could be designated either as low profile or high profile.

Commissioner Bokee stated that the type of use is important for the community on a planning perspective and that the type of use was always a possibility but he has a concern with that use being on this site which had been previously designated as a low profile site. Commissioner Bokee asked if there was a possibility if this use would be more appropriate in another section.

Mr. Wormald stated that with interacting with the assisted living care providers, their turnover is about every 2 years for an individual who is in one of these facilities so you are looking at a short term use. They prefer being on a main street and the more you put them deeper into a community the less people can find them.

Alderman Russell commented that with a facility like this which has people that may be in need of more immediate medical care, which access would be more difficult in the back of development and that emergency services would have to wind through the development to get to the facility.

PLANNING COMMISSION ACTION FOR PC11-493PND:

MOTION: Commissioner Brooks for the unconditional approval of the master plan PC11-493PND.

SECOND: Commissioner Fetting.

DISCUSSION: Commissioner Bokee asked if the approval would leave Block H as high profile.
Commissioner Brooks responded yes.

Commissioner Nash stated that she was concerned a lesser height would compromise the architectural design

VOTE: 4-1. (Commissioner Bokee opposed)

B. PC11-496FSI-Final Site Plan, Worman's Mill Village Center

INTRODUCTION OF CASE BY THE PLANNING STAFF:

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting approval of a final site plan for the Worman's Mill Village Center inclusive of 171 multifamily units, 27,244 s.f. of commercial/retail space, and an 80 domicile care facility.

The Applicant is also requesting the following modifications:

1. A modification as permitted under Section 16.10.9 to permit on street parking to be utilized to satisfy required onsite parking.
2. A modification from 8' parking area setback from streets and alley right-of-ways and to the 25' parking area setback for shopping center lots under Sec. 14.09 to allow for a 4' setback as permitted under 16.10.5.
3. A modification to the access separation requirements of Sec. 13.03.1 for multiple access points as shown as permitted under 13.03.2.
4. A modification to allow for building projections including but not limited to cornices, eaves, chimneys, turrets, and bay windows into required yards without limitation except for structures which may obscure sight distance per Sec.7.05.6D.
5. A modification to allow for open, covered or uncovered stairways, stoops and ramps to project into any yard without limitation except for structures which may obscure sight distance as permitted under Sec. 7.05.6D.
6. A modification from Level I screening requirement under Sec. 11.05.3.as to provide no screening along common lot lines of properties within the Village Center as permitted under Sec. 11.06.
7. A modification from the Level I and Level III screening requirements under Sec. 11.05.5.a.1 to provide no screening for parking lots along common lines of properties within the Village Center as permitted under Sec. 11.06.

INITIAL PLANNING STAFF RECOMMENDATION:

Staff recommended approval of a modification as permitted under Section 16.10.9 to permit on street parking to be utilized to satisfy required onsite parking.

Staff recommended approval of a modification to the required parking lot setback under Sec. 14.09 to allow for a 4' setback as permitted under 16.10.5.

Staff recommended approval of a modification to the access separation requirements of Sec. 13.03.1 for multiple access points as shown as permitted under 13.03.2.

Staff recommended approval of a modification to allow for open, covered or uncovered stairways, stoops and ramps to project into any yard without limitation except for structures which may obscure sight distance as permitted under Sec. 7.05.6D.

Staff recommended approval of a modification from Level I screening requirement under Sec. 11.05.3.as to provide no screening along common lot lines of properties within the Village Center as permitted under Sec. 11.06.

Staff recommended approval of a modification from the Level I and Level III screening requirements under Sec. 11.05.5.a.1 to provide no screening for parking lots along common lines of properties within the Village Center as permitted under Sec. 11.06.

Staff recommended approval of the architectural elevations as provided.

Contingent upon the approval of the above noted modifications, Staff recommended conditional approval of Final Site Plan PC11-496FSI subject to the following conditions:

To be met in less than 60 days:

- 1) Update general note 6 with the date of the Planning Commission meeting.
- 2) Remove general note 6.2 referencing the modification for cornices, eaves, chimneys, bay windows, and other projections.
- 3) Update general note 12 with the date of the Planning Commission meeting.
- 4) Revise general note 14 to revise the code reference to the Water and Sewer Regulations.
- 5) Update general note 25 with the date of the Planning Commission meeting.
- 6) Update general note 26 with the date of the Planning Commission meeting.
- 7) Under Table 9 "Parking Tabulations" note D, remove the reference to "total provided/available parking of 660 spaces."
- 8) Revise the on-street parking tabulations and references to deduct one (1) space that is to be utilized as a loading space on the south side of Mill Pond Road.
- 9) The entrance spacing table on Sheet FSP-5 must be amended to show the spacing from the bank entrance to Waterside Drive as 280' as opposed to Merchant Drive and a separate entry added for the spacing to Merchant Drive.
- 10) The Applicant must provide safe access from the accessible parking spaces to the building on Parcel A, Block C.
- 11) The Applicant must provide safe access from the accessible parking spaces to the building on Parcel A Block H.
- 12) Provide accessible ramps for sidewalks at the northern terminus of Merchant Street.

To be met in greater than 60 days and within one year:

- 1) Update general note 12 with the date of the staff approval for the final forest plan.
- 2) Update general note 25 with the date of unconditional approval.
- 3) Update general note 26 with the date of unconditional approval.
- 4) Address outstanding review comments from County DUSWM.

PLANNING COMMISSION QUESTIONING OF STAFF:

Alderman Russell suggested that with the relocated TransIt stop, that the Commission encourages Wormald Company to put a bus shelter there.

Commissioner Bokee concurred.

Commissioner Bokee questioned parking at the assisted care site, the total spaces being proposed that are onsite is 32 and required was 42 of which the balance of those are counted for offsite. He asked if it

would be acceptable to place a note on the plan that would require the employee parking to be located onsite since those vehicles would be there all day and the two facility vehicles would have a note to be onsite and then what is required for the number of beds be street parking. He also questioned about having bike racks.

Mr. Love stated that the detail sheets of page 3 and 4 depict the bike racks throughout the site.

Mrs. Dunn stated in regards to the bus shelter, that if the condition of approval is amended, that it be left to the discretion of TransIt as they will have maintenance responsibilities. With regards to designating parking spaces, if there is a desire on the parcel that falls short of residential for that to be residential first, attaching a condition of that nature is worthwhile but from an enforceability perspective it is difficult

Mr. Waxter stated that depending on the management style or whomever is going to run the facility you may run into a horrendous enforcement problem with that because if someone parks on the outside and walks in, whether they are working there or not, it will be difficult to determine that and feels that is a difficult requirement to try to enforce.

Commissioner Fetting stated that she would like to see the required parking onsite.

Commissioner Brooks stated that if the employee entrance was in the back of that building it would encourage the employees to go through the parking lot verses out on the street.

Alderman Russell concurred with Commissioner Fetting and would like to see the lot fully utilized, than parked on the street.

Commissioner Nash stated she has concerns about Building C in Block D. She noted that the village green has been a center piece for the community and to have the apartment building pushing into it makes it look like the apartment building's front yard. She also said that it is not meeting the parking requirements on site. She questioned if the building could be reduced slightly back off the park that way the applicant can possibly meet the parking requirement onsite.

Commissioner Bokee stated that the architecture is strong but he is again concerned with the use of materials at the assisted living facility where the siding seemed to be more prevalent and the mix of materials didn't seem to be as much for certain sides, especially the ones facing the existing townhomes.

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

Mr. Miller stated that with the site plan that is before the Planning Commission they have presented a great deal of testimony earlier in the meeting about the entire project. He added that they are in support of and agree with the staff recommendations and with the conditions of approval with the exception of 2 items, the first item being the less than 60 day condition number 9. They do not have a problem creating the easements, but would like to defer that to improvements plan because that is typically where the Applicant figures out where the easements will be or defer them to final plat recordation. He added that they could add a note for the site plan that says the cross easements must be provided at a different stage preferably the improvement plan stage. Mr. Miller stated the other issue is the request for a note about employee parking onsite. He stated that he agrees it is going to be difficult to enforce and they can only really encourage employee parking onsite, but cannot require it.

Mrs. Dunn stated that Staff does not have an issue deferring the easement recordation to improvement plans or prior to building permit, but the condition for easement recordation should be noted on the plan.

Mr. Wormald stated that he is struggling with understanding why a residential use can't park on the street just like the townhouses and the single family can. He stated that to create parking on streets, they have paved the street, built the curb and gutter in anticipation that cars would utilize the spaces. He noted that they also have an extra 132 within 700 feet of the site. He added that they should be able to utilize spaces that they paid for and constructed. He added that as far as having some type of note on the plan that encourages people to park in the parking lot wouldn't be a problem and feels that probably would occur in practice.

PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:

Commissioner Nash asked if there was any way to accommodate all of the residential parking onsite.

Mr. Wormald stated that the effort is to activate the park and that they want people to utilize the park from all aspects. He added that we are seeing this as a place where there would be benches that anybody could utilize. There are currently no benches in this park. The park is owned by the association that would oversee this area but with the full intention that it be available to anybody within the community. With regards to Building C, Block D, Mr. Wormald said as far as moving it back, it is currently at the curb and gutter of the abandoned Village Square Road location. The building is where the asphalt starts so the only thing that is actually encroaching into the park is the place where people can sit out of the rain under the porch and he feels that preserves the existing size and integrity of the park.

Mr. Tipton stated that the building placement is set up on the center line of the road. If you move it then you will have a "spatial leak" which it is intentionally lined up there to prevent. He noted that the activities at the ground floor of Building C are not just the activities for the people that live in that building but for everybody in the community can take advantage of.

Mr. Wormald stated they are tried to encourage people to come to this side of Worman's Mill because the primary customer of the retail is a Worman's Mill resident. So to relocate the building would require taking away from the available parking.

Commissioner Nash asked if the arcade of doors on the main porch of Building C functional. She also asked what is being taking away from the community in order to provide this apartment building.

Mr. Tipton said to think of this as a community integrated development that is not a gated community where people from outside are not welcome. It is to be an integral part of Worman's Mill.

Commissioner Nash asked if they would have memberships to the pool and the clubhouse.

Mr. Wormald replied yes.

Commissioner Bokee stated the porch is about 15 feet and that building was to move back you would lose roughly 6-8 parking spaces.

Mr. Wormald suggested that it would be closer to 8 spaces and that some of the green space on the plan would likely be lost to make that possible. He suggested that this building should be less offensive than a restaurant building previously proposed for the site with 2-3 restaurants in it and people coming from outside the community parking up and down the street.

Commissioner Bokee stated that given the master plan that was approved by the Commission and working within that envelope, one possibility would be to trade off of whether you lose approximately 8

onsite parking spaces if you deem the building should be pushed back more adjacent to the park so that the porch is not encroaching onto the park or leave the building where it is on the plan.

Commissioner Nash stated her preference to lose 10% of the building mass and get the parking spaces. She also understands it being aligned with the Village Square Road, but it disturbs the geometry of the park.

Commissioner Bokee asked about the assisted living facility and the materials to be used for it.

Mr. Wormald clarified where it states “cementitious siding,” on the elevations, that was not actually intended to be a flat surface but also hardy board siding.

Commissioner Fetting asked if the Commission could require the onsite parking for the residential uses and for the domiciliary care facility, but on street parking to be used for the commercial sections of the plan. She noted that the Commission could either approve the requested parking modification as it is written or could require the parking be provided onsite for the residential and domiciliary use. Requiring the parking onsite would require alterations to the plan that would require a continuance to a future meeting.

Commissioner Nash asked if the City Arborist has looked at the potential damage of the Leland Cypress by having a 6 foot fence next to it.

Mr. Love responded that it was routed and reviewed and there wasn't any specific comment on it. He noted that if the trees were to die, they would have to be replaced as part of compliance with the site plan.

Mrs. Dunn responded with the previously approved plan for the restaurant one of the conditions had been that the restaurant be parked onsite.

Alderman Russell concurred with Commissioner Bokee regarding the assisted living that there should be a variety of materials.

PUBLIC COMMENT:

Ms. Boyle of 2463 Merchant Street commented that she is a proponent of all parking onsite for the commercial and the residential. She noted that the residents use the streets to park due to the alleys being too small to put two cars in a garage and that is the only way for them to get services. She asked that the modification not be approved and keep everything onsite. She added the other concern is buffering and what kind would there be for the front of houses to be put up to block the light from the parking lot.

PETITIONER REBUTTAL:

Mr. Wiley stated that they are not asking for a modification for the Level I screening for the parking lots with the exception of the one area between the two buildings within the Village Center. The Level I screening for the edge of Block Parcel I meets the Level I screening, they exceed it because of the density of planting combined with a six foot high board on board fence. The buffers adjacent to Ms. Boyle's house are increased beyond the required six foot minimum width. As far as the screening for headlights all the edges of the parking lots, especially along Merchant Street, a minor berm has been provided of about 6-8 inches in height due to restriction of width between the curb line and the edge of the sidewalk along Merchant Street. He added that they did make a change from the last plan in changing the species, not only the height and the type of shrubs but also the spacing on them to accommodate the concern about headlights. They will be Cherry Laurel Shrubs which have a very thick spread on them.

Commissioner Nash asked if there was any lighting in the parking lots.

Mr. Wiley responded yes. There are free standing lights throughout the parking area plus we have some building mount lights and tried to place them where they will provide nice visibility in the lots but not be offensive.

Mr. Fred Eisenhart wanted to comment on parking. He said that if you were to apply the LMC parking standards to this project there would be less parking required than what is being shown on the plan and according to the LMC standard everything would be parked onsite.

PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:

There was discussion as to continuing the plan until the January 23 meeting for a vote and not have the applicant wait 30 days. Staff stated that they would not like to change the agenda that has already been published for the public to see and have this case go the February hearing because the Worman's Mill, Mill Island plan will be presented at that hearing as well.

Alderman Russell stated that it is clear that there are some areas that haven't been satisfied and would rather have a unanimous vote in support of a project. She agreed that there are some things that need more discussion and felt that if it is continued it would be beneficial to have it at the hearing where the Applicant will already be in attendance and not interfere with the agenda on the 23rd.

Mrs. Dunn stated that if it is continued we do have the agenda for the workshop on the 17th and we could further this discussion then.

RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:

There were no restatement/revisions from planning staff.

PLANNING COMMISSION ACTION:

MOTION: Alderman Russell made a motion to continue this case to the February Planning Commission Hearing.

DISCUSSION: Mr. Wormald stated that they are up against financing deadlines with the FHA and a month delay could seriously affect the project. He said that the concerns he has heard are parking and the building location. He is okay with one of those conditions, but both would be putting a small number of units in a common area. Mr. Wormald requested that to come to a resolution this evening.

PLANNING COMMISSION ACTION PER SECTION 16.10.9:

MOTION: Alderman Russell moved for the approval of a modification as permitted under Section 16.10.9 to permit on street parking to be utilized to satisfy required onsite parking.

SECOND: Commissioner Brooks.

DISCUSSION: Commissioner Bokee stated that they could suggest adding a condition about the relocation of the building.

Mrs. Dunn stated the changes that the Commission was describing would have a and feels that is should come back to the Planning Commission for review of those changes and the revised architectural.

VOTE: 2-3. (Commissioners Fetting, Nash and Bokee opposed)

DISCUSSION:

Commissioner Nash stated by them not being able to meet the parking onsite the applicant would have to redesign.

Mrs. Dunn stated that is correct, if you don't approve any of that modification regarding the parking then all these parcels need to have onsite parking provided for all their uses. If someone made a motion to approve the modification to allow on street parking excluding the residential component, that would be a different motion on that modification.

Commissioner Bokee stated that the effect would be that if commercial parking would not have an onsite requirement but would prefer that all residential would be onsite. The institutional is not residential we are not talking about that and that would be a separate modification. The only building that did not accomplish the parking was Building C which then the applicant is proffering that if you went with the onsite residential requirement only that they would be willing to lose the 6 units in that building and would not change the schematic of the building.

Mr. Wormald stated that the units are about 26 feet wide by losing those 6 spaces we would lose a unit and have shortened the building 26 feet and could put that footage towards the park and park onsite.

PLANNING COMMISSION ACTION PER SECTION 16.10.9:

MOTION: Alderman Russell moved for the approval of a modification as permitted under Section 16.10.9 to permit on street parking to be utilized to satisfy required onsite parking for commercial and intuitionally uses only.

SECOND: Commissioner Brooks.

DISCUSSION: Mrs. Dunn said to note that residential has to be parked onsite which means that there are 2 options 1) they can add parking or 2) reduce the number of units. So it may be good to attach a condition that says the number of units in Building C needs to be reduced to be supportive by the number or parking spaces currently on the site.

VOTE: No Vote Taken

MOTION WITHDRAWN BY ALDERMAN RUSSELL

DISCUSSION:

Mrs. Dunn stated that she would rather see the Commission not make a decision that they don't feel comfortable with and one that might result in revising architectural, footprints, landscaping, setbacks etc. She would like to put it on the agenda for January 23 agenda.

Commissioner Bokee stated that we are close to a resolution on the parking, the park and the units. The applicant is proffering that they can lose units for the required residential onsite and achieving the building coming off of the park, we would need to see the revised architectural. Can we go through the rest of this plan and see if there are other issues that come up.

Mr. Wormald stated that the building foot =print could easily stay the same and just change the number of units that would be an easy way of using the same plan. If the purview of the board is to move the building over that he doesn't see why the plan couldn't be approved conditioned upon the one building architecture and site plan being agreed to at a future hearing.

Mrs. Dunn suggested continuing all of the plans because some of the changes to the plans may impact the overall plan and Staff would want to see a final design in order to provide recommendations on the plans.

PLANNING COMMISSION ACTION FOR CONTINUANCE:

MOTION: Alderman Russell moved to continue PC11-496FSI, PC11-494FSU & PC11-495PFCP to the January 23rd hearing following the FMH agenda item and as indicated we can get drawings from Wormald Companies at the PC Workshop.

SECOND: Commissioner Bokee.

VOTE: 5-0.

Meeting adjourned at 11:28 p.m.

Respectfully Submitted,

Carreanne Eyler
Administrative Assistant

APPROVED 02-13-2012