

# Planning Commission Hearing

## Minutes

July 11, 2011

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

•I. **Announcements:**

II. **Approval of Minutes:**

Approval of the **June 13, 2011** Planning Commission Minutes were tabled until the August 8, 2011 hearing.

Approval of the **June 20, 2011** Planning Commission Workshop Minutes as amended:

**MOTION:** Commissioner Fetting.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

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

**MOTION:** Commissioner Brooks.

**SECOND:** Alderman Russell.

**VOTE:** 5-0.

**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. MISCELLANEOUS:**

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•A. **PC10-119FSU, Final Subdivision Plat, Dairy Maid**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Applicant is requesting a 2 year extension of the conditions of approval for the Dairy Maid Dairy final plat to consolidate the nine (9) parcels totaling 5.9 acres, that is a requirement of their previous site plan approval (PC07-578FSI) for construction of the cooling tower and new crate unloader.

**INITIAL PLANNING STAFF RECOMMENDATION:**

Staff recommends the extension of conditions of approval for the final consolidation plat PC10-119FSU for Dairy Maid Dairy, with the following condition to be met on or before July 13, 2013:

- 1. Execute and record storm water access and inspection easement and reference agreement on drawing.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

There was no questioning of staff from the Planning Commission.

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

Mr. Scott Miller, Wineberg & Miller concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**PUBLIC COMMENT:**

-

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.

**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 Brooks made a recommendation for the extension of the conditions of approval for the final consolidation plat PC10-119FSU for Dairy Maid Dairy, with the following condition to be met on or before July 13, 2013 1) execute and record storm water access and inspection easement and reference agreement on drawing.

**SECOND:** Commissioner Bokee.

**VOTE:** 5-0.

•B. **PC11-308PCM, Modification, 501 Elm Street**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Applicant is requesting approval of a modification to allow for the construction of a 6' tall fence within the secondary frontage of a reversed corner lot in accordance with Section 821, Fences, Walls, and Hedges of the Land Management Code.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff supports the requested modification and recommends approval for a 6' fence located along the secondary frontage of the reversed corner lot located at 501 Elm Street based on the following:

- 1. That the proposed fencing will be setback from the driveway and sidewalk 10' allowing for adequate site distance at the intersection of the driveway and the public right of way.
- 2. That the setback of the fence from the public sidewalk and the existing arborvitae will prevent negative impacts to the streetscape along W. 5<sup>th</sup> Street and that the fence design is consistent with the scale and design of the surrounding community.
- 3. That the setback of the fence from the immediate adjoining property, 301 W. 5<sup>th</sup> Street, prevents adverse impacts on the use and enjoyment of that property.

**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:**

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Mrs. Przybocki, owner concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**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.

**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Fetting moved to approve the requested modification for the construction of a 6' tall fence located along the secondary frontage of the reversed corner located at in accordance with Section 821 of the Land Management Code for 501 Elm Street PC11-308PCM.

**SECOND:** Commissioner Bokee.

**COMMENT:** Commissioner Bokee stated that staff will be working on a text amendment with language that would allow fence modifications to be primarily approved at staff level and not have them go before the Planning Commission.

**VOTE:** 5-0.

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•C. **PC10-380FSU, Final Subdivision Plat, Deferral Request, Clover Ridge**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mr. Mark entered the entire staff report into the record. He stated that the Applicant is requesting a positive recommendation from the Planning Commission to the Mayor and Board of Alderman for the deferral of public improvements.

**INITIAL PLANNING STAFF RECOMMENDATION:**

Staff supports a positive recommendation of the deferral request, case STF10-380FSU, to the Mayor and Board of Aldermen based on the fact that the public improvements will be constructed and the parkland will be conveyed to the City prior to the recordation of the last lot in accordance with the previously approved phasing schedule.

**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:**

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Mr. Jonathan Pembroke, Ausherman Development stated that he concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**PUBLIC COMMENT:**

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There was no public comment.

**PETITIONER REBUTTAL:**

-

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.

**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatement/revisions from Planning staff.

**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Bokee moved for a positive recommendation of the deferral request, case STF10-380FSU, to the Mayor and Board of Alderman based on the fact that the public improvements will be constructed and the parkland will be conveyed to the city prior to the recordation of the last lot in accordance with the previously approved phasing schedule and as noted in the verbal staff report.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

**•D. Plan Maryland**

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Mr. Adkins stated that this is basically a Comprehensive Plan for the State of Maryland. This plan is based on the 12 visions that the state adopted in 2009 and it is broken down into 3 themes 1) concentrate on development/re-development of the city's 2) preserve and protect the environmental areas 3) ensure the quality of life within the State of Maryland. He added that staff has made comments and that he is working with the county as well as Hagerstown and

Washington County to make sure all comments are touching the same bases and reinforcing each other. Mr. Adkins indicated that this plan does highlight what the state is trying to do.

**VI. OLD BUSINESS:**

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**•E. PC10-387PCM, Modification, Clemson Corner Sign Modification**

**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 has provided a modification package in accordance with §864(k)(3) to permit in increase in the permitted signage for the Clemson Corner shopping center. The revisions provided serve as an addendum to the modification package previously approved by the Planning Commission at their November 8, 2010 meeting and an addendum approved at the January 10, 2011 meeting.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommended conditional approval of the modification to increase the amount of permitted attached signage in accordance with §864(k)(3) and in the amount on the architectural elevations provided with the following conditions:

To be met in less than 60 days:

1. Revise the elevations to show the actual sizes of the signage to be attached to the building.
2. Add the newly proposed amount of signage to the "Tenant Provided Signage" and "Total Provided" calculation rows.

**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:**

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Mr. Jim Castillo, Clemson Corner, LLC stated that some additional awnings with a little more color would continue to dress up the back of the building.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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Commissioner Nash questioned all the temporary banners that are up.

Mr. Castillo replied that property management were told that when a new tenant opened up that they could put a sign for a week or two but then signs were to come down. He added that he will get property management to work on getting the tenants to take the signs down.

**PUBLIC COMMENT:**

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Diane Smoley resides at 7931 Worman's Mill Road thanked the commission for help with the temporary signage and that the Applicant should apply for sign permits for temporary signs.

**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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Commissioner Nash asked staff if the tenants would be directed to the Permits Department.

Mrs. Dunn replied that there is a sign permit for temporary signage and a maximum cap that is attached to that so we can look to see if they have applied for those permits.

**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatement/revisions from Planning staff.

**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Bokee moved to recommend conditional approval of the modification to increase the amount of permitted attached signage in accordance with Section 864 and in the amount on the architectural elevations provided with the 3 conditions to be met in less than 60 days for Clemson Corner PC10-387PCM as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0

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**VII. NEW BUSINESS:**

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•F. **PC11-176FSI, Final Site Plan, Market Square Residential**

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**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 final site plan (PC09-398FSI), for the residential component of the Market Square Mixed-Use project which was originally approved on April 12, 2010.

He stated that the Applicant is also requesting approval of the architectural elevations for compliance with the Class A building and urban design standards established in §604 for the proposed one-over-two multifamily units.

**INITIAL PLANNING STAFF RECOMMENDATION:**

Staff recommended approval of the architectural elevations based on compliance with the Class A building and urban design standards established in §604 as verified through the narrative and architectural elevations provided.

Staff recommends approval of final site plan PC11-176FSI with the following conditions:

To be met in Less than 60 Days:

- 1. Obtain unconditional approval of the revised preliminary subdivision plat and update notes #1 & 2 with the approval date.

**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:**

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Mr. David Lingg, Lingg Property Consulting concurred with the staff report.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**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.

**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 FOR ARCHITECTURAL ELEVATIONS:**

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**MOTION:** Commissioner Bokee moved to approve the architectural elevations based on compliance with the Class A building and urban design standards established in Section 604 as verified through the narrative and architectural elevations provided and as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

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**PLANNING COMMISSION ACTION PC11-176FSI:**

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**MOTION:** Commissioner Bokee moved to approve final site plan PC11-176FSI with the 1 condition to be met in less than 60 days as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

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•G. **PC11-177FSI, Final Site Plan, Market Square Sport & Health**

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**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 final site plan approval for the construction of a 42,120 s.f. health club on Lot R-4 of the Market Square Mixed-Use project.

Additionally, he stated that the Applicant is requesting the following modifications:

- 1. A modification to the one (1) large loading space requirement under §607(g), Table 607-5 to allow one (1) small loading space;
- 2. A modification to the maximum side setback of 25' under §417(c)(1), Table 417-2;
- 3. A modification of the Level II screening requirement between a parking lot and adjacent uses to Level I screening under §605(e), Table 605-3; and
- 4. A modification to §417(c)(6) to permit parking between the principal building and a street.

He also stated that the Applicant is requesting approval of the architectural elevations for compliance with the Class A building and urban design standards established in §604.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommended approval of the following modifications:

1. A modification to the 1 large loading (12' x 50') space required to 1 small loading space (12' x 20') based on the operations of the proposed business based on the Applicant's testimony regarding the loading/unloading needs of the business and the reduction in impervious surface area.
- 2. A modification of the Level II screening requirement between a parking lot and the adjacent parcel to the east based on 1) the safety concerns on the jogging/walking trail abutting the property, 2) the integration of the open space area into the overall development, and 3) the plantings provided within the open space providing an adequate buffer to the property to the east.
1. A modification to the maximum 25' interior setback for nonresidential lots under Table 417-2 based on 1) the Applicant's intent to create a square corner design at the



intersection of Shorebird Street and Osprey Way, and 2) the subject site's location at the periphery of the nonresidential portion of the project does not provide a break in the nonresidential use street wall.

2. A modification to the parking requirement under §417(c)(6), which requires that all parking areas in the MU1 district be located in the rear or side yard and not be located between the principle building and a street based on 1) the Applicant's intent to create a square corner design at the intersection of Shorebird Street and Osprey Way, 2) the use of landscaping, walls, and design treatments provided along the street frontage, and 3) the overhead power lines and associated easements create impediments to construction of buildings along Osprey Way, Mill Pond Road, and Shorebird Street.

Staff recommended approval of the architectural elevations based on compliance with the Class A building and urban design standards established in §604 as verified through the narrative and architectural elevations provided.

Staff recommended approval of final site plan PC11-177FSI with the following conditions:

To be met in less than 60 days:

1. Provide a note listing all modifications granted;
2. Update note #1 to include the approval date of the revised preliminary subdivision plat.

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

- 1. Obtain unconditional approval of the revision to the final site plan for Lots R-1 and R-3 to reduce the nonresidential square footage provided to the prescribed allowable under the master plan approval.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

Commissioner Nash questioned if any of the building and urban design standards the listed in the LMC have to do with the materials or the design of the building.

Mrs. Dunn stated that what the design standards are more related to developing streetscapes rather than building materials or construction type.

Commissioner Nash indicated her concern of the color of the building and asked the applicant to address how this enhances the overall design.

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

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Mr. David Lingg, Lingg Property Consulting concurred with the staff report. He stated that the two materials that are presented were a buff and a warm gray brick that were similarly used in the other nonresidential portions of the project in an attempt to bring the entire project together.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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Commissioner Nash asked if the entire building was the buff brick.

Mr. Lingg replied that there are two different colors of brick. There is the warm gray and buff and attached to this site plan and that they have provided a palate to the approved brick. He also noted that added that the glass used is the bluish tint it isn't the opaque reflective blue per

questions asked at the Planning Commission Workshop. He showed a sample piece to the Planning Commission.

**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.

**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatement/revisions from Planning staff.

**PLANNING COMMISSION ACTION FOR MODIFICATIONS:**

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**MOTION:** Commissioner Bokee moved to approve the 4 modifications for PC11-177FSI as read into the record by staff.

**SECOND:** Commissioner Brooks

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION ARCHITECTURAL ELEVATIONS:**

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**MOTION:** Commissioner Bokee moved to approve the architectural elevations based on compliance with the Class A building and urban design standards established in Section 604 as verified through the narrative and architectural elevations provided and as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION PC11-177FSI:**

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**MOTION:** Commissioner Bokee moved to approve final site plan PC11-177FSI with the 2 conditions to be met in less than 60 days and the 1 condition to be met in greater than 60 days and less than 1 year as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

•H. **PC11-226ZMA, Zoning Map Amendment, 201-203 E 2<sup>nd</sup> Street**

**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mrs. Dunn entered the entire staff report into the record. She stated that the Planning Department is requesting approval of a zoning map amendment to remove the Institutional (IST) floating zone from 201 and 203 E 2nd Street and to reinstate the Downtown Residential (DR) zoning district while maintaining the Historic District Overlay (HDO).

**INITIAL PLANNING STAFF RECOMMENDATION:**

This is the first of two required public hearings on this application and as such, no recommendation is required 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:**

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Mr. Seymour Stern, Stern & Thornton stated concurred with the staff report and would request a recommendation to the Mayor and Board.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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

**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.

**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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This is the first of two required public hearings on this application and as such, no recommendation is required at this time.

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**Meeting adjourned at 7:02 P.M.**

Respectfully Submitted,

Carreanne Eyler

Administrative Assistant