The Fruitland Planning Commission met at City Hall on Tuesday evening, April 5, 2011 at 7:00 p.m. with the following members present:

Richard Lee Outen, Jr., Derek Bland, Paul Bradshaw, and Annette Noble

Also present at the table were:

City Manager Rick D. Konrad, Assistant City Manager / City Clerk Diane C. Nelson, Utilities Director Joseph P. Derbyshire, Code Enforcement Officer Joe Vogel, and City Solicitor Andrew C. Mitchell Jr.

Also present in the audience was:

Councilor Edwin A. Cowell and Administrative Assistant Linda J. Powell

Our guests included:

Bob Marvel, John "Bunky" Nielsen, Bunky Carew, Donald Williams, Gary Spence, Rachel Dyson, and Randy Campbell

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Filling in for Chairman Bonneville who was unable to attend the meeting, Ms. Noble called the meeting to order at 7:02 p.m. and asked if there were any changes to the agenda; there being none, she then acknowledged receipt of the minutes of the March 1, 2011 Planning Commission Meeting, calling for additions or corrections. As there were none, **Mr. Bradshaw moved to adopt the minutes as presented; Mr. Bland seconded and the motion passed on a four to zero vote in favor.**

OLD BUSINESS

1. **W. Main Street Storm Drain Improvement (Extension for Easement Agreement) – (Donnie Williams)**

   City Manager Konrad provided an update regarding the progress to date in obtaining the easement agreements necessary for the developer to proceed with City required offsite storm drain improvements on West Main Street in conjunction with the Camden Landing Project; Mr. Konrad anticipates securing all the necessary easements at some point, but cannot specify a completion date.

   Given the current status of obtaining the easement agreements, changes in storm water regulations and Notice of Intent (NOI) permit requirements for discharge of service water since the issuance of the Maryland Department of the Environment (MDE) stormwater permit which expires April 2012, Bunky Carew and Donnie Williams presented their request for a waiver of the portion of the Public Works Agreement which requires the offsite storm drain improvements be completed prior to the City issuing Occupancy Permits for the development; they also indicated their inability to secure project financing without the waiver.

   After discussion, **Mr. Bradshaw moved and Mr. Bland seconded the motion that in the event of easements not being available in a timely basis and stormwater management and/or school board changes in plans in a manner on the property which would hold up project development, that the City grant the Developer a waiver on some of the more onerous restrictions in the Public Works Agreement. The motion however was abandoned prior to being put to vote given cautions raised by Solicitor Mitchell that *onerous restrictions* could be too broad a description of the waiver.**

   Then on a motion by Mr. Bland which was seconded by Mr. Outen and approved by a three to zero vote in favor with one abstention, the Planning Commission recommended to the City Council the approval of a an amendment to the Public Works agreement which would waive the requirement that the offsite work be completed before the issuance of an occupancy permit.

Final discussion included Solicitor Mitchell raising the pending issue of floating Equivalent Dwelling Units (EDUs) between Two (2) developer projects, Camden Landing and Camden Station; Mr. Williams indicated that the EDUs were still assigned to Camden Landing since the transfer of EDUs between projects had never gone before the City Council for final approval.

NEW BUSINESS

1. **207-209 N. Dulany Avenue – Rezoning Request – (Bunky Nielson)**

Mr. John "Bunky" Nielsen of BN Properties presented his request for 207-209 N. Dulany Avenue to be rezoned from C-2, Neighborhood Business, to R-2, Multi-Family Residential, to accommodate construction of a duplex unit if possible on his L-shaped lot at 207-209 N. Dulany Avenue; the property is presently zoned *C-2 Neighborhood Business,* but slated in accordance with the City's Comprehensive Plan to be designated a *Residential Zone* at some unspecified date in the future.

After discussion, **on a motion by Mr. Bland which was seconded by Mr. Bradshaw and approved by a four to zero vote in favor, the Planning Commission recommended to the City Council approval of the rezoning of the 207-209 N. Dulany Avenue property as requested, from C-2, Neighborhood Business, to R-2, Multi-Family Residential.**

On advice of Solicitor Mitchell which initiated additional discussion regarding Residential Zoning options, **on a motion by Mr. Bland which was seconded by Mr. Outen and approved by a four to zero vote in favor, the Planning Commission recommended to the City Council approval of the rezoning of the 207-209 N. Dulany Avenue property to R1-C, General Residential, in the event that Council does not approve the zoning change from C-2, Neighborhood Business, to R-2, Multi-Family Residential, as originally requested.**

2. **Variance Request (Its Fashion Metro) – Phillips Sign Company**

Gary Spence of Phillips Signs, Inc. presented a request on behalf of *Its Fashion Metro,* the tenant at 206 North Fruitland Boulevard, for a variance to install their standard business sign at their Fruitland location which encompasses three and one-half (3½) bays for a Sixty-seven and one-half foot (67½-ft) storefront.

Discussion included the City's method for determining sign square footage, and the sign dimensions in conjunction with the sign size allowed by zoning ordinance in the shopping center, the variance previously granted Food Lion for its sign in the same shopping center, and the size of other signs in neighboring shopping centers; discussion acknowledged the proposed sign as being more than twice the normal size allowed as well as protruding above the parapet on surrounding sides, suggesting that a reduced sign size be considered.

After discussion, **on a motion by Mr. Bradshaw which was seconded by Mr. Bland and approved by a four to zero vote in favor, the Planning Commission chose to make no recommendation to the Board of Zoning Appeals (BZA) for granting the Variance Request without additional information to include visual presentations of the facade size of the normal *Its Fashion Metro* storefront as well as a slightly smaller sign designed for the Fruitland location.**

Since the Variance Request is scheduled to be heard by the BZA at a Public Hearing on Thursday, April 14, 2011 and the Planning Commission will not meet again until Tuesday, May 3, 2011, it was suggested that Mr. Spence provide the additional information requested by the Planning Commission to the BZA during the Public Hearing.

3. **Special Exception Request – (Day Care Home) – Rachel Dyson**

Ms. Rachel Dyson presented her request to open a family daycare at her townhouse end-unit residence at 202 Garrison Way, which is a permitted use by special exception at that location which is zoned R-2, Multi-Family

Residential. She provided written documentation supporting passage of State of Maryland and Fire Marshal Inspections, and approval/no objection from the Colonial Village Homeowner's Association (HOA) along with a copy of the clause in the HOA Act which addresses the allowance/disallowance of a daycare facility in conjunction with HOA Covenants. Ms. Dyson also indicated verbal support from her neighbor for the daycare.

Discussion included number of children allowed in the facility, ingress/egress to the property, fence requirements, EDU considerations, if any, and written approval from her neighbor in support of the daycare facility.

After discussion, **on a motion by Mr. Bradshaw which was seconded by Mr. Bland and approved by a four to zero vote in favor, the Planning Commission recommended to the Board of Zoning Appeals (BZA) the approval of the Special Exception request for a daycare facility as presented.**

Since the Special Exception Request is scheduled to be heard by the BZA at a Public Hearing on Thursday, April 14, 2011, it was suggested that Ms. Dyson provide the written documentation from her neighbor in support of the daycare facility to the BZA during the Public Hearing.

4. <u>Special Exception Request (Used Car Sales) – Randy Campbell</u>

Randy Campbell of Campbell's Collision, Inc. presented his request for a Special Exception to obtain a wholesale car dealer license to sell used cars at his collision repair business; Mr. Campbell plans to purchase wrecked vehicles, repair them at his shop, and then sell the repaired vehicles.

After discussion which included the size of the lot and number of vehicles to be stored, **on a motion by Mr. Bland that was seconded by Mr. Outen and approved by a four to zero vote in favor, the Planning Commission recommended to the Board of Zoning Appeals (BZA) the approval of the Special Exception as requested to allow Mr. Campbell to obtain a wholesale car dealer license for used car sales at his collision repair business.**

Since the Special Exception Request is scheduled to be heard by the BZA at a Public Hearing on Thursday, April 14, 2011, it was suggested that Mr. Campbell provide information regarding the size of his lot and number of vehicles to be stored to the BZA during the Public Hearing.

5. <u>Flood Plain Ordinance Update – Discussion Item</u>

Solicitor Mitchell provided background information and then an update on the status of the Flood Plain Ordinance after recently speaking with Kevin Wagner from the State of Maryland Office of Flood Plan Management. The State of Maryland has established a model flood plain ordinance which Mr. Wagner is now strongly recommending municipalities adopt rather than trying to amend their own ordinances. The new deadline for adoption of the model ordinance is now Six (6) months after the State adopts the *effective date of the map,* which for Wicomico County is June 2012. Given the extended deadline, Mr. Mitchell will continue to discuss ordinance options with Mr. Wagner in order to determine the best course of action for the City and then report back to the Planning Commission.

<u>GENERAL DISCUSSION</u>

Administrative Assistant Powell initiated discussion regarding bypassing the Planning Commission when issues are to be heard by the BZA that can be heard with or without recommendation from the Commission, thus requiring the petitioner to appear only once before City officials. Commission Members determined by consensus, but without vote, that petitioners should continue to appear before the Planning Commission prior to appearing before the BZA. Petitioners as well as the BZA will benefit from input and suggestions from the Planning Commission and in most cases be better prepared for the hearing, as was demonstrated this evening.

Administrative Assistant Powell initiated discussion regarding the separate handling of daycare facilities in the Zoning Ordinance under R1-C, General Residential, and R-2, Multi-family Residential.

Final comments were made regarding issues brought before the Planning Commission this evening.

With no further business to discuss, **Mr. Bland moved to adjourn and Mr. Bradshaw seconded. The motion was approved by a four to zero vote in favor and the meeting adjourned at 8:28 p.m.**

Diane C. Nelson
Diane C. Nelson, Asst. City Mgr. /City Clerk
Approved, May 3, 2011 dcn