

**WINCHESTER COMMON COUNCIL SPECIAL MEETING
TUESDAY, JUNE 18, 2013
AGENDA
6:00 p.m.**

1.0 CALL TO ORDER AND ROLL CALL

2.0 PUBLIC HEARINGS

- 2.1 Public Hearing:** Appoint Minh Le as a “Ward 3” member of the Winchester School Board to serve a four year term expiring June 30, 2017.

3.0 AGENDA

- 3.1 Motion** to remove item CU-13-211 regarding the conversion of ground floor nonresidential use at 24 Wolfe Street, Unit 6, and 26 Wolfe Street from the table. (Tabled at the June 11, 2013 meeting after the public hearing was closed)
- 3.2 CU-13-211:** Conditional Use Permit – Request of KKE Properties LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 24 Wolfe Street, Unit 6 and 26 Wolfe Street, Unit A (*Map Number 193-01-C-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. **(REQUIRES ROLL CALL VOTE)(pages 2-7)**

4.0 ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 5/28/13 (work session),
6/11/13 (regular mtg)

CUT OFF DATE: 5/22/13

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

CU-13-211 Request of KKE Properties LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 24 Wolfe Street, Unit 6 and 26 Wolfe Street, Unit A (Map Number 193-01-C-8) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

STAFF RECOMMENDATION:

Approval with conditions

PUBLIC NOTICE AND HEARING:

Public hearing for 6/11/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

The Planning Commission recommended approval with conditions

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Zoning & Inspections	AMG		5/22/13
2. City Attorney	AW		5/22/2013
3. City Manager			
4. Clerk of Council	[Signature]		5-23-13

Initiating Department Director's Signature: [Signature] 5/22/13
(Planning Dept)



APPROVED AS TO FORM: [Signature] 5/22/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Will Moore, Planner
Date: May 22, 2013
Re: CU-13-211

THE ISSUE:

Conversion of ground-floor nonresidential space to multifamily residential use

RELATIONSHIP TO STRATEGIC PLAN:

Vision 2028 states that Winchester has a 'Vibrant Downtown' and 'Great Neighborhoods with a range of housing choices'. Continued Revitalization of Historic Old Town is a 2018 Goal.

BACKGROUND:

See attached staff report.

BUDGET IMPACT:

None

OPTIONS:

- Approve the request with conditions, consistent with the Planning Commission recommendation, because the proposed residential use of these particular units is as desirable, or preferable to, non-residential use.
- Approve with additional or modified conditions.
- Approve conversion of only one of the two units.
- Deny the request.

RECOMMENDATIONS:

The Planning Commission unanimously recommended approval for conversion of these two particular units.

Council Work Session
May 28, 2013

CU-13-211 Request of KKE Properties LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 24 Wolfe Street, Unit 6 and 26 Wolfe Street, Unit A (*Map Number 193-01-C-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

This request would allow additional ground floor space in the existing structure fronting along the north side of Wolfe Street in an existing mixed use building on a parcel addressed as 28-30 S. Braddock St (also known as 22-36 Wolfe St) to be used for apartments. Specifically, the request is to establish: 1) permanent residential occupancy for unit 26-A, previously approved for residential occupancy for a temporary period, and 2) residential occupancy for unit 24-6, a vacant unit on the north side of the building.

AREA DESCRIPTION

The subject property, as well all adjacent properties are zoned B-1(HW). The subject property is also in the flood fringe portion of the 100-year floodplain. The applicant documents 6 existing apartments on the ground floor, exclusive of the 2 units included in this application and an additional unit at 22 Wolfe St approved by Council in May 2013 in a separate CUP application. Additionally, there are 9 units on the second floor and 2 units on the third floor.



Properties along both sides of S. Braddock St. include commercial use with some residential use on the upper levels. The property across Wolfe St to the south is a private church parking lot. Indian Alley adjoins the site to the east.

STAFF COMMENTS

26 Wolfe St, Unit A – 1 bedroom, 925sf

In December of 2009, Ms. Vickie Puckett, who was then the manager and applicant for this property on behalf of Ft Loudoun LLC, returned to City Council with a request for reconsideration of a denied proposal to convert 26-A from office to apartment. The original case (CU-08-12) had been denied by Council in October 2008. In denying the request, Council reiterated its desire to maintain ground floor space for commercial uses. Subsequent to the denial, the applicant requested and was granted a CUP for conversion of a separate 800sf ground floor space to residential use. That request differed in that the unit was accessed from a rear alleyway to the north and did not have an entrance fronting on Wolfe St.

In Ms. Puckett's 2009 letter addressing the intent and basis for reconsideration, she cited a recent history of being unable to occupy the available commercial space with a tenant, despite advertising efforts and having reduced the rent. She requested the granting of the CUP for residential use temporarily "until this economic crisis has passed." At its November 17, 2009 meeting, the Planning

Commission forwarded CU-09-302 to City Council recommending disapproval because the use does not meet the intent of the Ordinance for ground floor spaces in the B-1 District. City Council ultimately approved the request on December 8, 2009 with a condition that the permit was valid for 24 months past the day of the signing of the first lease for residential use.

Unfortunately, the Council-imposed restriction on the duration of the residential use of 26A was not properly communicated to Ms. Engel, who purchased the property as KKE Properties LLC in June of 2011 from Ft Loudoun LLC. The unit at 26-A is still being occupied as an apartment.

This application seeks to establish permanent occupancy of 26A as a residential unit.

24 Wolfe St, Unit 6 – 2 bedroom, 950sf

This unit is situated on the north side of the structure, fronting along a narrow, east-west public alley that connects Indian Alley to Braddock St and provides access to private parking areas of surrounding properties. This unit has little visibility to other surrounding public rights-of-way. It is currently vacant and has existing kitchen and bath facilities, although it was noted as commercial space by the previous property manager in the 2009 application.

Land Use

As a prerequisite for consideration, no unit may be situated facing a major commercial street. Neither Wolfe Street nor the alley along the north side of the property are considered major commercial streets. The other frontage of the subject property, S. Braddock Street, is considered a major commercial street. The B-1 district is intended for the conduct of business to which the public requires direct and frequent access. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, and restaurants. The Old Town area is generally characterized by a mix of commercial and residential uses. Consideration should be given to the appropriateness of this type of use for this specific location.

Residential Density

The subject parcel is a 0.304-acre site (13,242sf) lot. At a density requirement of 1,000sf per unit, the base density would be 13.24 units. A bonus of 1.32 units is applied for location within the Secondary OTDB assessment district (0.10 bonus). The proposed conversion of commercial spaces to residential eliminate the Economic Impact bonus (0.25) that was previously applied to the property, however the Planning Director recently determined that the applicant’s restoration and preservation efforts qualify for the Historic Preservation bonus (0.40 with 81% preserved), resulting in an additional 5.30 units. The total density permitted as proposed is 19.86, rounded to 20 units. If this application for two units is approved, the result would be the maximum of 20 residential units.

Unit Floor Area

The Ordinance regulates both absolute and average minimum floor area per dwelling unit in the B-1 District. For general population (non-age restricted) one-bedroom units, the absolute minimum is 575sf; the average minimum is 700sf. 26-A is 925sf, and the average of the 12 proposed one-bedroom units would be 838sf. For general population two- or three-bedroom units, the absolute minimum is 725sf; the average minimum is 900sf. 24-6 is 950sf, and the average of the 8 proposed two- and three-bedroom units would be 1170sf.

Green Space

The addition of dwelling units invokes a slight increase in green area. Staff recommends that the applicant provide a nominal landscaping improvement in the form of some foundation planting, flower boxes, or contribution to the OTDB for landscaping within the public right of way in the general area. The applicant should also ensure that landscape planters and improvements required with prior residential conversions are still in place. The applicant will need to consult with the Board of Architectural Review (BAR) to get a recommendation as to reduced green area associated with residential conversion. Retention of the rooftop garden terrace should also be stipulated as a condition of expanded residential occupancy.

Flood Plain

According to the updated Federal Insurance Administration Flood Insurance Study mapping, the structure falls within the 100 year flood fringe of the flood plain. Any conversion to residential use should include provisions to flood proof the structure in accordance with the National Flood Insurance Program (NFIP) standards.

RECOMMENDATION

In order for a CUP to be issued, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. Additionally, a finding must also be made for this specific type of CUP request that the proposed residential use is as suitable as, or preferable to, other permitted uses on the ground floor.

At its May 21, 2013 meeting, the Planning Commission forwarded **CU-13-211** to City Council recommending approval for conversion of both units because the use, as proposed: should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood; should not be injurious to adjacent properties or improvements in the neighborhood; and, is as suitable as, or preferable to, other permitted uses on the ground floor. The approval is subject to the following:

1. Adequate flood proofing of the portion of the structure proposed for conversion in accordance with the applicable flood map designation, as determined by the City Engineer;
2. Landscaping in the form of retaining the rooftop garden terrace, some foundation planting, flower boxes, and/or contribution to the OTDB for landscaping within the public right of way in the general area in conjunction with BAR review and recommendation of required green area per Section 19-5-6.3a of the Zoning Ordinance;
3. Conformity with the submitted floor plans; and,
4. The unit shall be subject to the Rental Housing Ordinance program within the City of Winchester.

24 Wolfe Street, Ste. 65
Winchester, VA 22601

CU-13-211

April 8, 2013

City of Winchester
Rouss City Hall
15 North Cameron Street
Winchester, VA 22601



To Whom It May Concern:

This letter is to request a Conditional Use for the property located at 26 Wolfe Street, Unit A and 24 Wolfe Street, Unit 6 in Winchester, VA. The first unit is currently a residential unit, and we would like to update the records to ensure it remains with this use. The other unit in this building is residential. There should be no adverse affect on the neighborhood, as this unit has served in this capacity since before we purchased the property with no ill effects. The second unit is currently vacant with kitchen and bath facilities, and we would like to maintain this space as residential. All it is at the back of the property with no visibility along any major roadways. We can consistently locate and retain quality rental tenants (doctors, nurses, lawyers, teachers, etc...), and would be able to ensure that these units remains occupied with tenants who will support and add to the vibrancy of the Old Town area. We appreciate your attention to this request, and can be reached at 540-822-0197 to answer any questions you may have.

Respectfully yours,

Gail Engel
Owner
KKE Properties LLC