

PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, July 15, 2014, at 3:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

CALL TO ORDER: Vice Chairman Slaughter called the meeting to order at 3:00 p.m.

PRESENT: Vice Chairman Slaughter, Commissioner Shickle, Commissioner Loring, Commissioner McKannan, Commissioner Beatley

ABSENT: Chairman Wiley, Commissioner Smith

EX-OFFICIO: Interim City Manager Gerhart

FREDERICK CO. LIAISON: Commissioner Kenney

STAFF: Timothy Youmans, William Moore, Catherine Clayton

VISITORS: Terry McDonald, Ty Lawson, Bill Prokopchak, John Flood

APPROVAL OF MINUTES:

Vice Chairman Slaughter called for additions or corrections to the minutes of June 17, 2014. Hearing none, he called for a motion. Commissioner Shickle moved to approve as submitted. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

CORRESPONDENCE:

Mr. Youmans advised that Commission members have received a revised staff report for item 2C relating to RZ-14-351 which also includes the updated, oversized exhibit.

CITIZEN COMMENTS:

None.

REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

Commissioner Kenney said that the Frederick County Planning Commission did not have a meeting on July 2nd but that at the June 18th meeting they had a few public hearings and some Ordinance amendments.

PUBLIC HEARINGS – New Business:

CU-14-349 Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (**Mr. Grisdale**)

In Mr. Grisdale's absence, Mr. Moore presented the staff report stating that the request is to convert a structure consisting of two (2) units containing both residential and commercial uses to a single family dwelling. The applicant intends to convert the property at 10 East Clifford Street back to

single family residential use and make it their primary residence. Since this property has a nonresidential use on part of the first floor, a conditional use permit is required for the conversion back to residential use. He said that the applicant may or may not request that the application be tabled but staff wanted to present the case and hold the public hearing because there have been some adjacent property owners express interest in the request. He added that the property is located within "Parking District A" in the downtown which provides for 100% relief of off-street parking requirements. At present, there are no parking spaces provided on the subject property and that with the conversion away from commercial office use and reduction in residential units from two (2) to one (1), there will likely be a decrease in parking and vehicular traffic. The subject property does have the appearance of a residential building and it is located on a street that consists mostly of residential uses. He concluded by stating that staff does not anticipate any negative impacts based upon the proposal as submitted and that he is available for questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked when the Commission will know whether the applicant intends to table the request. Mr. Moore stated that Mr. Flood is in the audience and that he will address the Commission during the Public Hearing.

Vice Chairman Slaughter Opened the Public Hearing

John Flood, applicant, approached and requested to have the request tabled as the office space he intended to move to is no longer available and he will need additional time to find an appropriate space.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Shickle asked if the Commission is to go forward, what time frame is there for the applicant to meet the conversion. Mr. Moore stated that a conditional use permit, unless otherwise stipulated in the approval, is valid for one (1) year as of the date of Council's action.

Vice Chairman Slaughter Advised that the Public Hearing will Remain Open

Vice Chairman Slaughter then called for a motion.

Commissioner Shickle moved to table CU-14-349 until the August 12, 2014, meeting with the Public Hearing remaining open. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

RZ-14-350 AN ORDINANCE TO REVISE THE PROFFERS AND DEVELOPMENT PLAN ASSOCIATED WITH 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (Map Number 231-04-K-8A) CONDITIONALLY ZONED HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY. (Mr. Moore)

Mr. Moore presented the staff report stating that this is a request to amend the proffers and development plan that were approved by Council in October 2013 when Planned Unit Development (PUD) overlay was established on the former Coca-Cola property. The original approval included two (2) options: Option A with 5,678sf of commercial space and 18 apartments; or, Option B with 8,049sf of commercial space and 16 apartments. The request is to add a third option for 5,678sf of commercial space with 23 apartments. The site layout plan with associated landscaping, buffering, parking, etc., remains unchanged with the additional proposed option, as do most of the previously approved proffers, including a maximum of two bedrooms in any apartment. The applicant is requesting a third option, Option C. Option C would provide for fewer two bedroom units than Options A or B while providing for additional one bedroom and studio units. The primary area of difference in the floor plans for Option C is within the 1974 addition which is the northern part of the building. Both Options A and B include eight (8) two-bedroom units, all of which are two-story units. Option C would provide for thirteen units in this area: two (2) would remain as two-bedroom, two-story units. The remaining eleven (11) would consist of one (1) two-bedroom unit and ten (10) one-bedroom units, all of which would be single floor units.

Mr. Moore said that the site development plan, buffering, and open space would remain unchanged. Also, in terms of the density, the requested 23 units is the maximum number that can be achieved on this size property. PUD allows for consideration of up to 18 units per acre and with just slightly under 1.3 acres, this would be the maximum achievable density on the property. Numerous other criteria were evaluated during the original rezoning request that has to do with Comprehensive Plan consistency, the site development and buffering, open space, and design quality. The proffers and the development plan that went along with those remain unchanged so really the Commission is only looking at the proposed increase in number of residential units and the adjustment of the proffers to match that. He concluded by stating that he is available to answer any questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked about additional parking along Roberts Street and the curbing that is going to be added. He asked if there will be a sidewalk installed along Roberts Street because it is difficult to determine this from the site plan. Mr. Moore responded if the right-of-way width were there, ideally a sidewalk would be good but there is a transition in grade from Roberts Street up to the actual site itself so space-wise with the width of the right-of-way, there would not be space to provide both, the sidewalk and the parking spaces. Mr. Youmans said that staff will look into it with the site plan to see if there is a way to put a sidewalk in. Commissioner Loring said that ideally there should be a sidewalk especially if this is parking for the apartments there.

Vice Chairman Slaughter said that he wanted to confirm that it meets all of the parking requirements and the green-space requirements.

Vice Chairman Slaughter Opened the Public Hearing.

Terry McDonald, representative for the applicant, approached and said that Option C is the most desirable for this project and requested that the Commission look favorably on the request.

Commissioner McKannan asked, if the Commission approves Option C, what time frame is the applicant looking at to make a choice as to the Option and forward the development plan. Mr. McDonald said that he is 95% certain that they would choose Option C. He concluded by stating that he is available for questions and thanked the Commission for their time.

Bill Prokopchak, 1714 Lewis Street, stated that the property does need to be developed because it is beginning to deteriorate but he asked the Commissioners to be cautious about the number of apartments that they allow so that there will be sufficient parking on the property so as not to cause problems on the streets. He thanked the Commission for their time.

Vice Chairman Slaughter Closed the Public Hearing

Vice Chairman Slaughter then asked Mr. Moore to review the parking as proposed. Mr. Moore said that the applicant had originally obtained a variance for the actual number of off-street parking spaces but it was conditioned upon this development plan having the applicant making improvements in the public right-of-way to provide on-street parking spaces which are the ones that are shown. They do not necessarily meet the regulation as it reads in the Ordinance for off-street parking but with the addition of the on-street parking spaces that they are going to construct, there is sufficient parking by Ordinance standards to meet their needs. Vice Chairman Slaughter then asked if all of the parking would be completed prior to the development being completed. Mr. Moore said that a detailed site plan would have to be complete before any work can be started or completed.

Commissioner Loring then said that by looking at the site plan, it appears that there will be about 47 on site and another 10 on Roberts Street. Commissioner Shickle said that she counts 45 on-site and another 14 on Roberts Street. Commissioner Shickle said that with the majority of the units being one-bedroom units, this reduces the potential of over-parking. Mr. Moore said that the requirement is one space per unit regardless if they are one-bedroom or two-bedroom units.

Vice Chairman Slaughter called for further discussion or questions. Hearing none, he called for a motion.

Commissioner McKannan moved to forward RZ-14-350 to City Council recommending approval subject to the proffers in the revised Proffer Statement dated May 30, 2014, because the proposed revision continues to support mixed use and the expansion of housing serving targeted populations as called out in the Comprehensive Plan. The recommendation is based upon adherence with the Development Plan titled Conceptual Site Layout Plan, Rezoning Exhibit 'A' dated May 30, 2014.

Commissioner Beatley seconded the motion. Voice vote was taken and the motion passed 5-0.

RZ-14-351 AN ORDINANCE TO CONDITIONALLY REZONE 33.40 ACRES OF LAND AT 200 MERRIMANS LANE (Map Number 149-01-7-A) FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY, CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT AND LOW DENSITY RESIDENTIAL (LR) DISTRICT TO EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT, HIGHWAY COMMERCIAL (B-2) DISTRICT, HIGH DENSITY RESIDENTIAL (HR) DISTRICT AND LR DISTRICT; AND TO CONDITIONALLY REZONE

3.37 ACRES OF LANE AT 418 MERRIMANS LANE (*Map Number 169-01-3*) FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT. (**Mr. Youmans**)

Mr. Youmans presented the revised staff report of July 15, 2014. He said that the title has not changed but the application has been amended to no longer request the High Density Residential in Land Bay 'C' area. This title will change before it goes to City Council so that it no longer makes reference to that request. There was a revised development plan submitted yesterday which requests to remove proffers. There are two (2) sites that are subject to this rezoning, the larger one is the Ridgewood Orchard Limited Partnership property that extends from the intersection of Merrimans Lane past the built four (4) lane divided portion of Meadow Branch Avenue beside the CVS up through the site in between the Sacred Heart property and the DBL Holdings property. The latest revised version of the rezoning dated July 11, 2014, and received by the City on July 14, 2014, no longer requests HR zoning on the area identified as Land Bay 'C' on the Generalized Development Plan, and instead simply removes the previously established proffers for the MR and RB-1 zoned portions of this area lying to the east of Meadow Branch Avenue. For now, the zoning district map will still show a small area of RB-1 zoning adjoining the Sacred Heart property.

A 2014 revision to the Comprehensive Plan was adopted by City Council on July 8, 2014. It calls for facilitating the establishment of a new elementary school along the west side of Meadow Branch Avenue Extended and envisions a variety of housing types in the central and southern portions of the Ridgewood Orchard site and planned commercial uses in the northern portions. It specifically suggests that MR zoning would be appropriate for the area known as Land Bay 'C' unless a PUD calling for age-restricted housing is included as part of the rezoning request, in which case, high density zoning may be appropriate. The 2005 rezoning request for the Smith property established a mix of zoning designations on the 36-acre parcel to the west of the Sacred Heart property. All but two (2) acres adjacent to Merrimans Lane was rezoned from LR to more intensive zoning. The conditional rezoning request includes a proffer Generalized Development Plan (GDP) originally dated June 4, 2014, and most recently revised on July 11, 2014, MR zoning without the 2005 proffers is now requested. This predominantly MR district includes a conspicuous "tail" of RB-1 zoned land situated between the Sacred Heart property and the proposed Meadow Branch Avenue right-of-way boundary. The Proffer Statement dated June 2, 2014, and revised June 4, 2014, included proffers organized under six (6) headings but the latest revised Proffer Statement dated July 11, 2014, includes proffers organized under five (5) headings. The revised Proffer C now calls for the removal of the previously adopted 2005 rezoning proffers associated with the MR and RB-1 zoning that is, for now, being retained in Land Bay 'C'.

Mr. Youmans added that the elimination of the proposed HR zoning for Land Bay 'C' makes the latest revised version of the request generally consistent with the recent amendment to the Comprehensive Plan that was unanimously adopted by City Council on July 8, 2014. Staff does not particularly favor retaining the tail of RB-1 zoning down between the proposed roadway and the adjoining Sacred Heart property, it is understood that a further rezoning of this area and the remaining MR land in Land Bay 'C' will be forthcoming once a known Planned Unit Development (PUD) proposal for age-restricted housing with a proffered site layout for a specific use is proposed. The proposed B-2 and EIP zoning requests seem consistent with the vision expressed in the 2014 amendment to the Comprehensive Plan. The Green Circle Trail, while not depicted on the GDP, is part of the Comprehensive Agreement between the City and the School developer, and thus is

consistent with the approved recommendation in the 2014 Comprehensive Plan exhibit for the subject area.

Mr. Youmans stated for clarification that there will be a public open house where Mr. Eisenach, Public Services Director, will be addressing the issue of two (2) lane striping versus four (4) lane striping within the existing Meadow Branch North area. He concluded by stating that staff has included an amended motion for consideration by the Commission and that he is available for questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner McKannan asked about the Corridor Enhancement overlay, specifically, if the Commission kept the CE overlay intact, what are the advantages on the property as it exists now? In other words, what is the likelihood of someone coming in and building a structure on that property if the CE overlay is kept intact? Mr. Youmans stated that the larger portion is more likely the area where a large footprint building would go which could not be built by-right because of the square footage limitations that Council imposed with the Corridor Enhancement overlay district for Amherst Street. A lot of that was deliberated by Council just before the 2005 rezoning with the CVS. It was determined by Council that they did not want buildings that would over-power the entryway in to the historic district. Having said that though, there are many institutional uses there including Sacred Heart, the churches in the area and of course, the hospital. They would need to get a conditional use permit in addition to a site plan. These processes could overlap so it would be perhaps another month of review. Commissioner McKannan then asked how many lots are in that general area to which Mr. Youmans advised that it is one single lot. Commissioner McKannan then said that it could be subdivided at a later time to which Mr. Youmans replied that is correct.

Commissioner Loring asked what, if any, feedback staff has received from the applicant as it relates to the change in the CE overlay. Mr. Youmans said that he sent it to the applicant shortly after providing it to the Commission and just before the meeting started, one of the representatives had some questions about it but they both acknowledged earlier that they may address it with comments.

Commissioner Shickle said that she is unclear as it relates to the allowable uses in the proffer statement and the School Board's ideas about potential uses. She questioned whether or not it included the School Board's opinion. Mr. Youmans said that it includes some but not all and that it would be best addressed by the applicant or representatives from the School Board. He also said that he thinks the School Board would like to further limit the uses on the B-2 portion of the Ridgewood Orchard site. The key there is when an applicant proffers something it is supposed to be directly related to an impact that might arise and so there is a lot of gray area there in terms of which uses directly impact the adjoining, existing uses. In this case, it is somewhat unusual because you have the school that is not yet an existing use or an existing zoning designation so there are two (2) zoning proposals coming forward as a single application but the beneficiaries of those two (2) portions of the site should negotiate with one another. Commissioner Shickle said that in some ways it is better that the Commission does not have that information. Mr. Youmans said that from a staff perspective, we are saying that it is a good proposal but that perhaps it could be better in terms of further minimizing the potential impacts on the basis of residential and proposed school use but staff does not feel as though it is necessary to secure a favorable recommendation.

Vice Chairman Slaughter asked about the MR, specifically if the Commission takes it through the rezoning now and the applicant chooses not to take it through HR and PUD and leaves it at MR and develops it as MR, is staff comfortable with the proffers being removed and if it were to be developed as MR, is staff comfortable with the proffers currently being proposed. Mr. Youmans said that he believes so because it is probably unlikely that someone will make use of that property for single family detached residences that are on 8,000sf lots.

Vice Chairman Slaughter Opened the Public Hearing

Ty Lawson, representative for the applicant, said that the one issue that came to them recently is the Corridor Enhancement overlay. It is not proper to say that there is no overlay because they have intentionally retained all aspects of that, in particular, the design portions and have taken out the actual square footage in terms of building size. He added that the design standards are critical because they want them to be attractive and to have varied roof pitches. The bottom line is that we are not finding 8,000sf users, they are bigger than that. We are trying to create something that will facilitate attractive uses that are not already restricted. He said that since the Comprehensive Plan was adopted last Tuesday, they are trying to put together, as quickly and accurately as possible, a PUD application for the part that is being left as MR. Lastly, he said that they did make some revisions to the uses as requested and suggested by the School Board. We are working on that further still and although we will continue to talk with them about it, some of the concerns they raised are about potential uses that could be applied for under a future conditional use process. If some future applicant wants to raise a conditional use permit for something on one of those land areas, that is a great opportunity for those folks to raise the issue and discuss the impacts and decide whether it is allowable or not. It gives us pause to agree to cut off things forever for this project but we are willing to look in to it further and to talk with the School Board further to satisfy everyone. He concluded by saying that he would be happy to answer any questions.

Vice Chairman Slaughter called for questions from the Commission.

Commissioner Loring asked if the School Board agrees with the current update. Mr. Lawson said that this information went to them last Tuesday or Wednesday and the applicant did make the revisions in response to their comments but that we are still moving along to address any outstanding issues.

Vice Chairman Slaughter said that their only objection to including the very western portion in the CE overlay is the inconvenience of going through a potential conditional use application for a larger building. Mr. Lawson said that as they wrote it, they have put in all of those standards except that which relates to building size. It is a severe handicap and it is not desirable to limit the size of a building. Mr. Lawson added that he is not sure why the City would decide upon the 8,000sf limit.

Ed Smith, Winchester School Board representative, asked that there be a list of exclusions and we are working with the land owner on it. We do not foresee any issue with the exclusions with the exception of one (1), and that is gun sales and services. The idea of sales and services of guns so close to a school is very unsettling, the proximity, accessibility, and the potential situations that they can create and for that reason, the School Board would ask the Commission and Council to consider this exception. Even an ancillary service such as a sporting goods store for such should be included

in this exception. That is the School Board's biggest concern. Vice Chairman Slaughter asked if gun sales are permitted in the B-2 District. Mr. Youmans said that if it is a use otherwise associated with a retail store, the Zoning does not distinguish although there may be separate permits and licensing required but he does not believe that there is anything in the Zoning Ordinance that distinguishes between retail and direct sales. Vice Chairman Slaughter said that there would be no possible way to exclude that then. Mr. Youmans said that if there are shooting ranges and things as such, there are restrictive uses. Vice Chairman Slaughter said that if the applicant were to proffer that, they would have to proffer a much larger group of businesses. Mr. Youmans said no because they can structure their proffer the way they want but the key is that it has to be a voluntary proffer from the applicant and not a forced proffer from a neighboring property.

Commissioner Loring asked Mr. Smith about the other seven (7) issues and whether they are okay and that the only one that is really outstanding is the gun shops and services. Mr. Lawson said that they will have to look hard at that because it is a component of a multitude of schools and we are willing to have dialogue with our neighbors on how to proceed to discuss the impacts that come with it but we do not want to unwittingly agree to it and then find out later that we have some really desirable uses and then have someone tell them that they cannot come in that area. At this time, we are not willing to voluntarily proffer no gun sales and repairs but we are willing to continue to talk with the School Board. Vice Chairman Slaughter asked if the applicant could submit additional proffers to which Mr. Youmans said that they can submit revised proffers right up until the time that Council hears the application.

Vice Chairman Slaughter asked if there are any other questions, comments or discussion.

Vice Chairman Slaughter Closed the Public Hearing

Vice Chairman Slaughter called for discussion from the Commission.

Commissioner Beatley said that in the proffer they are excluding the building size but if the Commission would forward a motion to include the CE overlay, which has the building size restriction, which would take precedence? Mr. Youmans said that the area where the CE is removed, Proffer A would take precedence. For the area, if any, that you recommend keeping the CE overlay, then it would be the CE District overlay.

Commissioner Loring asked if the Commission moved to forward, could the applicant and the School Board continue to discuss the issue to which Vice Chairman Slaughter responded yes they can but Council can decide whether or not to allow the rezoning.

Vice Chairman Slaughter said that generally it makes sense and that he is supportive of what is seen here. He understands the proffers but his concern is if another developer would come in and buy portions. He would be more in favor to include the small portion of CE District overlay.

Commissioner Shickle said that she has a hard time making a recommendation but that she, like Commissioner McKannan, is not in favor of extending the CE District overlay any further than it has to be.

Vice Chairman Slaughter called for further discussion. Hearing none, he called for a motion. Commissioner Shickle moved to forward RZ-14-351 to City Council recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-14-351, Prepared by Winchester Planning Department, July 14, 2014" because the proposed B-2, EIP, RB-1 and MR zoning supports public school construction, supports economic development, and is generally consistent with the amended Comprehensive Plan. The recommendation is subject to adherence with the latest Generalized Development Plan titled 'Ridgewood Orchard and DBL Holdings' dated July 11, 2014, and the submitted proffers dated June 2, 2014, and last revised July 11, 2014.

Commissioner Loring seconded the motion. Roll call vote was taken and the motion passed 5-0.

PUBLIC HEARING – Continued:

CU-14-166 Request of Oakcrest Properties for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. (**Mr. Moore**)

Mr. Moore stated that he heard from the applicant who advised that they are going to proceed with a request for a variance for off-street parking to the Board of Zoning Appeals because they were unable to secure the easement to provide access to the rear parking spaces that would otherwise be required for the required off-street parking. This item will have to remain tabled until such time as the BZA application comes in and is acted upon. If the Commission is so inclined to keep it tabled, which staff would suggest, you have two (2) options, one (1) is to continue the public hearing until such time as it comes back to the Commission or two (2) you can close the public hearing as it has been open for several months and there will be a public hearing associated with the BZA request so there will be another opportunity for public input.

Commissioner Loring asked if the applicant would come back with a new site plan because the current one has two (2) parking spaces in the back. Mr. Moore said that there is some discussion going on as to whether or not they received a recorded easement so there may be a right to traverse that travel lane but they are not going to force that issue. It is likely that they will continue to show those two (2) parking spaces in the rear but that will be worked out.

Vice Chairman Slaughter called for a motion.

Commissioner Loring moved to table CU-14-166 until the applicant has secured approval from the Board of Zoning Appeals. Commissioner Beatley seconded the motion. Voice vote was taken and the motion passed 5-0.

NEW BUSINESS:

Administrative Approval(s) (**Mr. Moore**)

- 1) Minor subdivisions (June 2014)
 - a. **MS-14-318** 1804-1850, 1811 Roberts Street Boundary line adjustment

Vice Chairman Slaughter stated that this was just for the information of the Commission.

ANNOUNCEMENTS:

Vice Chairman Slaughter announced that this marks Mr. Moore's last meeting with the Commission. On behalf of Chairman Wiley and all of the Commission members, he thanked Mr. Moore for his years of service and wished him well in his endeavors. He then made a presentation of a plaque from the Planning Commission to show their appreciation to Mr. Moore. Mr. Moore in turn thanked the Planning Commission members and said that he has great respect for all of the members and their dedication as well. Mr. Youmans also thanked Mr. Moore for his service and dedication and said that he has been such a valuable asset to the department.

ADJOURN:

With no further business before the Commission, the meeting adjourned at 4:30 p.m.

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