

## PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, October 15, 2013, at 3:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

**CALL TO ORDER:** In the absence of Chairman Wiley, Vice Chairman Slaughter called the meeting to order at 3:00 p.m.

**PRESENT:** Stephen Slaughter, Jennifer Beatley, Kevin McKannan, David Smith, Beau Correll, Martha Shickle, William Wiley

**ABSENT:** None

**EX-OFFICIO:** Councilor Tagnesi, City Manager Iman

**FREDERICK CO. LIASON:** Kevin Kenney

**STAFF:** Tim Youmans, Will Moore, Aaron Grisdale, Catherine Clayton

**VISITORS:** Timothy Painter, Scott Juergens, Scott Rosenfeld, Ron Mislowsky

### APPROVAL OF MINUTES:

*Vice Chairman Slaughter called for corrections to the minutes of the September 17, 2013, meeting. Hearing none, he called for a motion. Commissioner Shickle moved to approve the minutes as submitted. Commissioner Beatley seconded the motion. Voice vote was taken and the motion passed 6-0.*

### CORRESPONDENCE:

Mr. Youmans advised that there is a revised staff report to reflect the discussion and changes that were made subsequent to the Work Session last Tuesday for rezoning, RZ-13-500, which is item 2B on your agenda.

### CITIZEN COMMENTS:

None.

### REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIASON:

Mr. Kenney advised that the Frederick County Planning Commission only had one item on their September 18<sup>th</sup> meeting. It was a rezoning request by Greenway; it is 55 acres on Berryville Avenue, around the Blue Ridge Trailer Park. They cleaned up some language and cleaned up some parcels to make it a more marketable parcel for future development for the current owners. That was the only thing that was on the agenda.

**PUBLIC HEARINGS:**

**CU-13-495** Request of Bowman-Turner, LC, for a conditional use permit for conversion of ground floor nonresidential use to residential use at 118 ½, 120, and 124 East Cork Street (*Map Numbers 193-01-P-31 and 32*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (**Mr. Moore**)

Mr. Moore presented the staff report stating that the request is for a conditional use permit approval under Section 9-2-16 of the Zoning Ordinance pertaining to conversion of nonresidential ground floor use to residential use within the Central Business District. He advised that the request applies to three contiguous structures that were converted from residential use to offices around 1989 and that the buildings have been vacant since 2009. Mr. Moore stated that the structures have door and window openings that are typical of residential dwellings rather than commercial storefronts and that the units that would be accessed directly from the East Cork Street sidewalk all have living rooms at ground level. Additionally, three of these are two-level units with the bedrooms located on the upper stories. He then added that the applicant is proposing additional improvements such as additional green area and off-street parking for five (5) vehicles. Mr. Moore remarked that the Planning Director has determined that this segment of East Cork Street does not represent a major commercial street and would suggest that City Council could find the ground-floor residential use to be as suitable as nonresidential use. He concluded his presentation by stating that for a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

**Vice Chairman Slaughter opened the public hearing.**

No comments to be heard.

**Vice Chairman Slaughter closed the public hearing.**

*Vice Chairman Slaughter called for comments and discussion from the Board.*

Commissioner Correll stated that it does seem as though the applicant took steps in order to utilize the commercial potential and I believe it is a good measure to approve what is being asked.

Councilman Tagnesi then asked why the applicant is not putting in a set of stairs instead of requesting a sidewalk easement. Mr. Moore responding stating that there is an existing doorway in the enclosed porch and in order to install stairs, there would have to be a new doorway opening.

Chairman Wiley arrived at the meeting but asked that Vice Chairman Slaughter continue leading the meeting.

*Hearing no other discussion or comments, Vice Chairman Slaughter called for a motion.*

*Commissioner Smith moved to forward CU-13-495 to City Council recommending approval because the proposal, as submitted, will not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The recommendation is based upon finding that the proposed ground-floor residential units are as suitable or preferable to other permitted uses on the ground floor and is subject to the following:*

- 1. Conformity with the submitted floor plans;*
- 2. Acquisition of the necessary easement for the proposed stair encroachment; and,*
- 3. Staff review and approval of the related site plan, to include a recommendation from the BAR on the proposed open space.*

*Commissioner McKannan seconded the motion.*

*Voice vote was taken and the motion passed 6-0-1 (Wiley abstained).*

**RZ-13-500** AN ORDINANCE TO CONDITIONALLY REZONE 7.7076 ACRES OF LAND AT 940 CEDAR CREEK GRADE (*Map Number 249-01-2*) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY. (**Mr. Youmans**)

Mr. Youmans advised of the revised staff report and the revised proffers dated October 11, 2013. He then stated that the applicant is requesting to change the underlying zoning of a large tract of mostly vacant land at the western limits of the City along the north side of Cedar Creek Grade from RO-1 to B-2 subject to proffers. Additionally, the proposal keeps the Corridor Enhancement (CE) overlay zoning in place for the first 125 feet back into the site from Cedar Creek Grade but eliminates it from the remainder of the site where the taller residential structures are proposed. The request proposes to add Planned Unit Development (PUD) overlay zoning across the entire site adding that the B-2 zoning would permit the construction of up to 139 apartment units, assuming that the overlay Planned Unit Development (PUD) provisions and Corridor Enhancement (CE) provisions are met. Further, based upon the Development Plan, the development is proposed to include a private extension of Stoneleigh Drive connecting with another private drive that then intersects Cedar Creek Grade. The proposed street location minimizes impacts on the Harvest Drive neighborhood and provides for an indirect connection to the public portion of Stoneleigh Drive, however, it will require granting of an exception by City Council to allow for the new private street to be situated within 300 feet of the existing Harvest Drive intersection. He then reviewed the changes to the staff report and the addition of bulleted item number 5 under Proffer 3 – Site Development. Also, under Proffer 5 – Recreation, there is a slight revision stating that the trail system would be available for use by the residents and the local public for a period of two (2) years after completion with it being available to the residents in perpetuity. Mr. Youmans also added that the applicant is proposing to phase the project in 8 phases over a 5-year timeframe as part of the PUD rezoning with some flexibility as to the

sequences of the phases. He concluded his presentation by stating that he is available for questions or comments.

*Vice Chairman Slaughter called for discussion from the Board.*

Commissioner McKannan stated that he had a concern about the traffic impact on Cedar Creek Grade and the proximity of the entrance and exit to Harvest Drive is going to be close.

Mr. Youmans responded that the prior traffic impact analysis looked at making a four-way intersection consistent with the Comprehensive Plan and tying up with Stoneleigh Drive where it terminates with Summerfield Lane. Now it will be shifted over to come down where there is nothing across the street but where there is a better sight distance. He further stated that there is quite a bit of transition of the westbound left-turn lane approaching this residential street. This would all be worked out with the Public Services Director as part of the development review.

Mr. Youmans advised that it is closer than what they normally would like to have it but the fact that it will only be a three-way intersection and not a four-way and that there is no opportunity to create a new street coming off of the side, that lends support for having it closer than if it were a full four-way intersection.

Commissioner McKannan then asked if there is anything that can be done as far as extending the westbound lane to make it a turn-only lane in to that development.

Mr. Youmans stated probably not because the volume of traffic there and that the Public Services Director looked at that and determined that it was not necessary.

Commissioner McKannan stated that he does not necessary feel that it is a volume issue rather it is a speed issue because the people traveling westbound to eastbound from Route 37, it is a quick deceleration coming over that hill which a lot of times, it doesn't happen.

Mr. Youmans stated that a lot of times people start to slow down once they see the splitter island and the raised medium.

**Vice Chairman Slaughter opened the public hearing.**

Tim Painter of Painter-Lewis, representative for the applicant, addressed the Board and stated that they tried to take the best parts of the previous application and the comments that were made by Council and this body and put them together to give us this project, that we feel is a good, sound project for the area and the City. He noted that the project architect, Tim Machado was present and that Tim Stowe, who did the traffic study should be there soon and that the owner was present. He stated that they will be happy to answer any questions.

*Vice Chairman Slaughter called for questions from the Board for the applicant. Hearing none, he asked if there is anyone else who would like to speak on behalf of the project.*

Scott Juergens, Stone Ridge Road, addressed the Board and stated that his contingent is not really with the planned community because obviously something is going to go there, but having

to navigate the traffic. It is a decelerating issue and it is also an issue trying to navigate around all of the turning traffic at Orchard Hill because right now, a lot of people go in to the left lane to go around. He further stated that if you are going to have three or four cars getting ready to turn in to Stone Ridge and now, not less than a block away you are going to have another intersection that is going to continue to force all of the traffic in to the left lane. Even though the island is there, because traffic is so steady at peak times, it is nothing to have four or five cars sitting there waiting to turn and now you will have all of this traffic that has to get into that left lane and navigate the left turn to go into Stone Ridge and "I perceive it as a pretty tall order at peak times." He further stated that he is concerned about the close proximity of where Orchard Hill is and where this new driveway is and the fact that there is not a lot of time and space for a lot of cars to congregate at peak hours. Of course, coming from the other direction, you have all of the traffic coming down from the Route 37 area that is not slowing down at any given time, even tractor trailers. So the reality of the situation is that there is a lot happening in a short amount of time plus we still have the Frederick County deal that is coming and that there is going to be a traffic light up there. He stated that possibly Mr. Rosenfeld could connect on to the road from the Frederick County deal where the traffic light will be. He added that he knows that the City does not want to have a traffic light here because the last time he went to the hearings, the City commented on the cost per year for maintenance. He then added that he can understand if they do not want to put a traffic light there but if this goes forward and no one manages the traffic in an appropriate manner, you are going to have a lot of accidents in there because people are not going to get used to that and because they already have a lot to navigate around to get out of the City. So, even though the number of houses has been cut down, it is still a lot to expect in a short amount of time and he requested that the Board considered the increased traffic flow and related problems.

*Vice Chairman Slaughter asked if there is anyone else who would like to speak on behalf of the project.*

**Vice Chairman Slaughter closed the public hearing.**

*Vice Chairman Slaughter called for discussion from the Board.*

Commissioner Wiley stated that he would like to make a comment in regards to the traffic issue. He said that he understands that traffic is a major issue but that it was found that the traffic impact for this type of use is the least of all types. He then added that it was not including the commercial use, however, the commercial use brings further economic opportunity to the City, so that is a plus. He stated that he thinks the best way to do this would be to have the light out in the County done first but unfortunately, we cannot predict or wait long to make that happen. We can only make plans according to the City. That being said, the traffic issue is more of an enforcement issue than what it is with Mr. Rosenfeld's opportunity so this is something that needs to be addressed with the police department. Additionally, this plan has met the needs of the economic development plans of City Council. We do not have a three bedroom issue so the school issue is pretty much taken care of, so therefore, he supports this project.

*Vice Chairman Slaughter stated that this is a complicated rezoning and it is a major rezoning, so I believe it would be good for the record to have a discussion with points for and against so feedback would be appreciated.*

Commissioner Correll stated that this plan does have what it says it does. It has elevators so we are able to reach a segment of the population that we are trying to go for in the Comprehensive Plan and that he knows it comes at a cost to the applicant, he does appreciate that the developer has taken those steps. He then added that he does not feel it will have an adverse effect any more than the last project that was proposed so he congratulates the developer for coming forward with that and the mixed use that the previous developer did not.

Commissioner McKannan stated that he likes the project and it is a good use for the land that is there and it is sound planning practice. One thing that he definitely would like to see considered is the traffic flow issue. He then added that he understands that the traffic impact analysis was done but at the same, he is over there all the time also. At least pay attention to turning lanes maybe being extended or maybe reworking how the turning lanes are designed. He does not think that it is a matter of putting in a traffic light because he does not think that will cure it. Whether it is decreasing the speed further out Cedar Creek Grade or extending the turning lanes, please take in to consideration the traffic. He then stated that he does like the project.

Commissioner Beatley stated that she also likes the project and that all of the issues she has had with prior projects have been resolved but that she also has concerns on the traffic because she drives through that area every day and it is a mess, so maybe looking at a right turn lane may help otherwise you are probably going to see an increase in accidents in that area. In general, she stated that she is in favor of this project.

Commissioner Smith stated that he feels that once construction actually starts on this project and people see the activity going on that the traffic impact analysis will work itself out.

*Hearing no other comments or discussion from the Board, Vice Chairman Slaughter called for a motion.*

*Commissioner Beatley moved to forward RZ-13-500 to City Council recommending approval of the rezoning as depicted on an exhibit entitled "Rezoning Exhibit RZ-13-500, Prepared by Winchester Planning Department, October 1, 2013," because the proposed B-2 (PUD/CE) zoning supports the expansion of housing serving targeted populations, facilitates the connection of Stoneleigh Drive to Cedar Creek Grade, and provides for commercial space in support of the Commerce Revitalization/Infill character designation in the Comprehensive Plan. The recommendation is subject to adherence with the latest Development Plan titled 'CONCEPTUAL SITE LAYOUT PLAN EXHIBIT "A"' dated September 9, 2013 (last updated on October 11, 2013) and the submitted proffers dated September 9, 2013, and last revised October 11, 2013.*

*Commissioner Wiley seconded the motion*

*Voice vote was taken and the motion passed 7-0.*

**TA-13-488 AN ORDINANCE TO AMEND AND REENACT SECTION 22-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO REFERRAL TO AND ACTION BY THE PLANNING COMMISSION ON REZONINGS AND ZONING TEXT AMENDMENTS. (Mr. Youmans)**

Mr. Youmans advised the Board that this proposal merely takes advantage of the 100-day time frame for the Commission to take action rather than the 90-day provision that is in our local Ordinance. It would also clarify the language in terms of when an application is referred to the Commission to make it more compliant with State Code. He then stated that he would be glad to answer any questions that the Board may have.

*Vice Chairman Slaughter called for questions from the Board.*

Commissioner Shickle stated that she wanted to reiterate that it is not the intent of the Board or staff to hinder the development process rather this is just to bring us in to compliance with what is allowable under State Code. It is not a tool that the Board is attempting to delay the review process.

Mr. Youmans added that it is more developer-friendly because it does not force the Board to hastily forward a negative recommendation because you are out of time. It allows you to work with the developer and say “address this one issue and hopefully we can forward on to Council with a favorable recommendation.”

Vice Chairman Slaughter stated that there is still that gray area where we have PUDs and things like that when it is determined that, complete application or not, that sometimes we may not have everything that we want. We may want other things and because of that it gets tabled and so I guess that is something that we need to work through to try to figure out to make sure that we have a truly complete application before we actually start considering it.

**Vice Chairman Slaughter opened the public hearing.**

There was no one to speak on behalf of or in opposition.

**Vice Chairman Slaughter closed the public hearing.**

*Vice Chairman Slaughter called for discussion from the Board. Hearing no additional comments or discussion, he called for a motion.*

*Commissioner Wiley moved to forward TA-13-488 recommending approval because it represents good planning practice by more clearly ensuring compliance with State Code and allowing a more reasonable upper limit of time for the Commission to make a recommendation to City Council.*

*Commissioner Smith seconded the motion.*

*Voice vote was taken and the motion passed 7-0.*

**NEW BUSINESS:**

Administrative Approval (**Mr. Moore**)

**SP-13-519** 320 N. Cameron Street Glaize – Phase 2 Pennoni Associates

Mr. Moore addressed the Board and stated that this is small phase at the Glaize property whereby it creates off-street parking with 20 spaces just to the north of the remodeled building. He stated that it is basically a broken asphalt storage area right now. The applicant wants to convert a little more than half of the area out toward Cameron Street in to a more finished look for the area and they will maintain some of the storage space during this phase that will be gated and fenced off. The parking area will have some landscaping to dress it up and a new entrance will be constructed. At this time, it has not been called out as a building but will be retained for future use. BAR approval on some of the exterior changes would be necessary. This site approval does not substitute for BAR approval.

Commissioner Wiley stated that from an aesthetic standpoint, you are looking at phasing this back piece as it relates to the fencing.

Commissioner Shickle asked if the wall is coming down to which Mr. Moore stated yes it is. Commissioner Shickle then asked if there are any strings attached to it since it was constructed to which Mr. Moore stated that he does not know. Commissioner Shickle then added that she thinks it is a good thing that the wall will be removed adding that with the improvements being proposed, the wall has served its purpose and the private investment will supersede that.

*Vice Chairman Slaughter called for additional questions from the Board. Hearing none, he then called for a motion.*

*Commissioner Wiley moved to approve SP-13-519 as submitted.*

*Commissioner Correll seconded the motion.*

*Voice vote was taken and the motion to approve passed 7-0.*

**ADJOURNMENT:**

With no further business, the meeting adjourned at 3:52 p.m.