

PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, March 18, 2014, at 3:00p.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: Vice Chairman Slaughter, Commissioner Beatley, Commissioner McKannan, Commissioner Smith, Commissioner Loring, Commissioner Shickle (arrived late)

ABSENT: Chairman Wiley

EX-OFICIO: Councilor Tagnesi

FREDERICK CO. LIAISON: Commissioner Kenney

STAFF: Tim Youmans, Will Moore, Aaron Grisdale, Carolyn Barrett

VISITORS: Mary Braun

APPROVAL OF MINUTES:

Vice Chairman Slaughter called for additions or corrections to the minutes of February 18, 2014. Hearing none, he called for a motion. Commissioner Shickle moved to approve the minutes as submitted. Commissioner Smith seconded the motion. Voice vote was taken and the motion passed 6-0.

CITIZEN COMMENTS:

None.

REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

Commissioner Kenney stated that the Frederick County Planning Commission held its last meeting on March 5, 2014. There was a capital improvement priority list that was approved and sent on to the board of supervisors, which they approved. There was discussion of public facilities in the Comprehensive Plan that is part of the CIP, which was also moved forward and will continue to be worked on. There was a flood plan overlay district discussion that's part of the state mandated to renew and stay in compliance. There was a report on the planning commission retreat summary. The planning commission created a mission statement and it was approved by all the board members.

PUBLIC HEARINGS:

TA-14-33 An ordinance amending article 14.1 of the Winchester Zoning Ordinance pertaining to floodplain regulations

Mr. Grisdale presented the staff report and the text amendment which clarifies the appointment and duties of the Floodplain Administrator which is the City Engineer.

Vice Chairman Slaughter called for questions from the Commission.

Vice Chairman Slaughter Opened the Public Hearing

Vice Chairman Slaughter Closed the Public Hearing

Vice Chairman Slaughter called for discussion from the Commission.

Hearing none, he called for a motion.

*Commissioner McKannan moved that the Planning Commission forward **TA-14-33** with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing clear local ordinances for development and redevelopment within established floodplain districts in order to meet the requirements of FEMA and the National Flood Insurance Program.*

Commissioner Beatley seconded the motion.

Voice vote was taken and the motion passed 6-0.

OLD BUSINESS:

RZ-14-35 An ordinance to rezone 2.57 acres of land at 1570 Commerce Street (Map Number 252-01-2) from Commercial Industrial (CM-1) District to Medium Density Residential (MR) District with Planned Unit Development (PUD) District overlay.

Mr. Youmans stated that the status of the project was discussed at the previous week's work session and it was indicated that they had not received the fiscal impact information that the commission had requested as is permitted in the zoning ordinance. The applicant indicated that they were going to request tabling for an additional month. On page 27 of the staff report from last Tuesday, there were some recommendations available for the board.

Vice Chairman Slaughter questioned if they had already asked for floor plans. Mr. Youmans replied that they had and they worded it to allow the applicant time to provide information on the floor plans but he didn't think it was specifically required. Part of the potential impacts of the project the staff were considering was the number of school-aged children that might be generated by the three bedroom units. The proffers that are included with the proposal by the developer preclude it being built as four (4) bedroom units. They are proposing that all 26 units be 3 bedroom units or could be 3 bedroom units.

Commissioner McKannan asked if it was something that was absolutely needed to move the process forward. Mr. Youmans said it's more in anticipation of the question arising when it gets to council where the fiscal impacts are needed from a policy standpoint. Page 25 of the staff report tried to flesh out the comparison of this project with other projects have come forward with three (3) bedrooms initially were a concern. While the project is only 26 units, the applicant has asked for 100 percent of the units to be 3 bedrooms. For consistency's sake, there has been review of the number of bedrooms with PUD rezoning. Vice Chairman Slaughter said that they were asking for additional material but it was ultimately up to the applicant to provide the information or not.

*Commissioner Smith made a motion to table **RZ-14-35**, an ordinance to rezone 2.57 acres of land at 1570 Commerce Street (Map Number 252-01-2) from Commercial Industrial (CM-1) District to Medium Density Residential (MR) District with Planned Unit Development (PUD) District overlay.*

Commissioner Loring seconded the motion.

Voice vote was taken and the motion passed 6-0.

NEW BUSINESS:

A. Resolution to initiate: **TA-14-118** An ordinance to amend and reenact Articles 1, 6, 7, 8, 9, 10, 13, 15.1 of the Winchester Zoning Ordinance pertaining to definitions, permitted uses, and uses requiring a conditional use permit for alternative financial institutions

Mr. Grisdale presented the staff report stating that this is a publicly sponsored text amendment requesting the Planning Commission initiate this month pertaining to several types of alternative financial institutions, modify existing provisions regarding short term loan establishments and set up some standards regarding permitting of those alternative financial institutions with the conditional use permit in several zoning districts. Mr. Grisdale gave a brief history of the amendment.

Vice Chairman Slaughter said they were not changing the intent of the ordinance at all, just bringing it up to speed and current to coincide with the state.

*Commissioner Beatley moved to initiate **TA-14-118** an ordinance to amend and reenact Articles 1, 6, 7, 8, 9, 10, 13, 15.1 of the Winchester Zoning Ordinance pertaining to definitions, permitted uses, and uses requiring a conditional use permit for alternative financial institutions.*

Commissioner McKannan seconded the motion.

Voice vote was taken and the motion passed 6-0.

B. **SV-14-94** An ordinance to conditionally vacate a portion of S. Indian Alley right-of-way adjoining the proposed Shenandoah Valley Discovery Museum at 19 W. Cork Street and conditionally convey it to the Shenandoah Valley Discovery Museum

Mr. Youmans presented the staff report regarding the request by the Shenandoah Valley Discovery Museum. The request has been reviewed by multiple departments and is generally consistent with the Comprehensive Plan. There has been a lot of concern about relative safety. Shifting the traffic away from that corner of the building which has a blind view to the west is a safer situation for pedestrians. It is tempered with new concerns about the proposed use of that space. The board's role is fairly limited. It is not a public hearing in front of the commission, it is a recommendation. The council, after first reading, will appoint specific viewers and their task will be to go out and determine whether or not there is any inconvenience caused. The museum provided a rendering showing how they might create a dinosaur park that could be placed in that area and the alley would be shifted out into the parking lot. One option the commission could make is to forward it to city council with neither a favorable or

unfavorable recommendation but to simply make a finding that it is or is not consistent with the Comprehensive Plan. That is the commission's role in this larger effort to evaluate it.

Vice Chairman Slaughter said that they were supposed to look at things in terms of the health, safety and welfare of the community. There was some discussion about potential concerns about cars in the parking lot. The area where the relocation is proposed is not where there are parking spaces today.

Vice Chairman Slaughter asked if there were any questions or comments from the commissioners.

Commissioner Loring said that since the work session there were some changes that would increase the 235 to whatever it might be and asked if they should be concerned about that. Mr. Youmans said it does increase the amount of area of what they want to encumber but it does not change the square footage of the alley. This particular action is the ordinance to vacate and convey a public alley versus an ordinance or approval otherwise that council would consider to allow for encumbrance of the parking lot parcel. Mr. Youmans replied that the latter issue would not come to the planning commission. It would just be an agreement between city council, the parking authority and the Discovery Museum to encumber part of a parcel of land. He reminded the commissioners that there would be a reversion clause. The proposal would be not to charge the museum for that conveyance to them. The city would still have underground utilities and other things there. It is basically a conveyance with a reversion clause to that the liability to the City of Winchester goes away.

Commissioner Smith noticed that in the staff report, there is only one staff recommendation and it is a more or less favorable recommendation and not one for a motion for an unfavorable or for any other reason especially in light of some of the questions and concerns expressed in the work session. One being the summary of use of the parking area, the parking authority sent him a letter that pertained to it and possibly the actual use of the alley. One of their biggest concerns is the safety of the children that are placed in that area where the dinosaur is going to be and the possible blind spot that buses may cause. Those are some things that need to be addressed.

Mr. Youmans said that was more about the encumbrance of the parking authority property. There was not any change to this particular item which is the vacation of the alley itself. It was more in response to what was in the draft development agreement Mr. Glaize had sent to the city attorney. It is beyond the purview of the planning commission with respect to a recommendation on the alley vacation. There are going to be other issues that other groups that do look at operational, maintenance and others. BAR looks at the aesthetic issues. That is beyond the planning commission's role. That is specifically a task of the BAR.

Commissioner Smith said he had nothing against dinosaurs or anything like that but going back to the Comprehensive Plan where Mr. Youmans pointed out to identify and widen certain sidewalks, you can create certain social spaces. If they are looking at the alley right there, they are only given a picture of the potential spot of 235 feet but they do not have dimensions. His concern is they are not getting enough information to move it forward to city council. If they do not have enough information to go by than it would be difficult for them to make a favorable recommendation.

Commissioner Shickle asked is it required to tell them what is going to go in that area once it is vacated. Mr. Youmans said no. The focus is not land use as much as it is on the vacation of that for public street

purpose or in this case public alley purpose is consistent with the Comprehensive Plan. Commissioner Shickle said that they are being asked to evaluate whether or not they should grant the vacation of the property. That is the distinction as she is reading back through the staff report and the materials.

Mr. Youmans noted that there are other groups that are going to focus in on safety, aesthetics and emergency access. All of those things are going to be looked at by a multitude of agencies and other boards and commissions. Commissioner Shickle said the option he suggested, that they could forward a determination of consistency with the Comprehensive Plan is probably more comfortable for her. It allows it to go forward to those other bodies to negotiate all the other details of what's being proposed.

Commissioner Smith expressed concerns about the limits of review for the alley vacation. He compared it to what they just tabled on Commerce Street. He is very supportive of what the Discovery Museum is doing but he is also looking at public safety. It was mentioned that cars turning on Cork Street from Braddock Street could not gather a lot of speed but it does not take a lot of speed to hit a kid. Now there is going to be a bunch of kids getting off buses in a 235 square foot area not knowing what type of boundary there is going to be there.

Vice Chairman Slaughter said he was trying to think back to some other vacations they have had. He was thinking of one where an alleyway off of Berryville Avenue where someone had put a fence up. When they considered that, were they solely looking at whether it was consistent with the Comprehensive Plan? Mr. Youmans said yes, they did not look at what was going to be the land use if that alley was vacated. In terms of good public planning and consistency with the Comprehensive Plan, as far as movement between two points, that is what they looked at there. A better example is Spring Street where Spring Street used to be platted as an alley west of Greystone Terrace and it went back to the railroad tracks. The Comprehensive Plan never called for that street to extend back into there or to cross over the railroad and connect with Glaize Avenue or somewhere on South Loudoun Street. They are looking to advise the council as to whether or not an alley should be discontinued or a request where somebody wants to eliminate it altogether versus just converting what amounts to less than 100 feet in length here.

Commissioner Beatley asked if the details would be in a separate development agreement. Mr. Youmans replied yes. Commissioner Beatley asked if they were to approve the vacation and conveyance, all of what they are proposing could change anyway in that agreement such as the dinosaur and the fence and the other things. Mr. Youmans said that was correct, it was strictly a recommendation from the commission. They are not making the decision yea or nay, that is the council's decision on both the vacation ordinance as well as that separate agreement that the city attorney is working up.

Vice Chairman Slaughter asked if they forward it with those conditions, if they wanted to add conditions, that is up to the council's discretion as to whether they were going to impose it. By the same token, they could forward it to council subject to the following conditions without a recommendation or a recommendation to disapprove. Mr. Youmans said in the example crafted, if they do not want to recommend approval, or if they want to recommend disapproval, the two (2) conditions listed there are only relevant if council thereafter does approve the vacation. Vice Chairman Slaughter said that having the access moved further down away from the front of the building is favorable for the plan. If you were to exit 50 feet to the right of that, you would be able to see oncoming pedestrians. There are still some things that are not fully spelled out and not fully vetted. One condition that he would like to see added is

that they recommend a condition for a submittal of an operational plan that adequately addresses all safety concerns that may arise from this vacation or something to that effect.

Commissioner Shickle asked what the group thinks about the idea of forming consistency with the Comprehensive Plan rather than a recommendation for approval. Essentially it sends a favorable message but there is a distinction as far as the details that they do not have that still need to be worked by the appropriate bodies that are responsible. Vice Chairman Slaughter asked if she would feel more comfortable if they put in there and said that the commission requests **SV-14-94** city council recommend approval because it is consistent with the Comprehensive Plan subject to the following. Commissioner Shickle stated this is a case of having more information than is necessary to make the decision and that is what causing the challenges for them. If the public understands that those decisions will be made at a later date by the appropriate parties then she is okay with the way the motion is proposed.

Vice Chairman Slaughter said they are just recommending the vacation and conveyance. Vice Chairman Slaughter asked Commissioner Shickle if she did not feel it was necessary to specify the consistency with the Comprehensive Plan. She said that as long as everyone understands that is what a favorable motion means. Mr. Youmans said another option would be to base it on a finding that it is not consistent with the Comprehensive Plan.

Vice Chairman Slaughter read the motion with the changes he had made.

“Move that the commission forward the Vacation and Conveyance request **SV-14-94** to City Council recommending approval because it is consistent with the Comprehensive Plan subject to the following conditions:

1. Establishment of utility easements for existing utilities situated within the existing public right-of-way; and,
2. An agreement between the City and the Discovery Museum spelling out the terms and conditions of any possible reversion of ownership back to the City.
3. Submittal of an operational plan that adequately addresses the safety concerns arising from this vacation.”

Vice Chairman Slaughter asked if there were any changes. Hearing none he asked for a motion.

*Commissioner Shickle motioned to forward the Vacation and Conveyance request **SV-14-94** to City Council recommending approval because it is consistent with the Comprehensive Plan subject to the following conditions:*

- 1. Establishment of utility easements for existing utilities situated within the existing public right-of-way; and,*
- 2. An agreement between the City and the Discovery Museum spelling out the terms and conditions of any possible reversion of ownership back to the City.*
- 3. Submittal of an operational plan that adequately addresses the safety concerns arising from this vacation.*

Commissioner Loring seconded the motion.

Voice vote was taken and the motion passed 5-0-1. Commissioner Smith abstained.

C. Administrative Approval(s) (Mr. Moore):

1. **SP-14-84** 1523 S. Pleasant Valley Rd./222 Spring St., Winc. Marketplace, Painter-Lewis

Mr. Moore presented the project and said this is a request for authorization of the site plan.

Commissioner Loring made a motion to permit administrative approval with one condition that the traffic pattern be adjusted to one lane around the window. There was no second therefore the motion died.

Commissioner McKannan motioned to authorize SV-14-84 for approval.

Commissioner Shickle seconded the motion.

Vice Chairman Slaughter asked if there was any discussion and there were some comments from the members.

Vice Chairman Slaughter repeated the motion that they grant administrative approval, that they support staff recommendation that the two-way traffic be addressed.

Voice vote was taken and the motion passed 5-0. Commissioner Smith had departed at 4:05pm.

2. **SP-14-86** 300 Westminster Canterbury Dr., Vitality Ctr. Additions, Greenway Engineering

Mr. Moore presented the project and said this is a request for authorization of the site plan.

Vice Chairman Slaughter called for a motion.

Commissioner McKannan motioned to approve SV-14-86 for approval.

Commissioner Beatley seconded the motion.

Voice vote was taken and the motion to approve passed 5-0.

3. **SP-14-110** 1665 S. Pleasant Valley Rd., Taco Bell revision, Rosa Gaddy

Mr. Moore presented the project and said this is a request for authorization of the site plan.

Commissioner Loring motioned to approve SV-14-110 for approval.

Commissioner McKannan seconded the motion

Voice vote was taken and the motion to approve passed 5-0.

OTHER DISCUSSION

None.

ADJOURN

With no further business, the meeting adjourned at 4:29pm.

DRAFT