

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, August 17, 2010, at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Chairman Adams, Vice-Chairman Shore, Commissioners McKannan, Slaughter, Sublett, Talley and Wiley (7)
ABSENT: None (0)
EX-OFFICIO: City Manager O'Connor
FREDERICK CO LIAISON: Commissioner Mohn
STAFF: Diem, Moore, Youmans, and Walsh
VISITORS: Allen Cartwright, Jr., John Tagnesi, Ron Mislowsky, Matt Reges

CALL TO ORDER: Chairman Adams called the meeting to order at 3:00pm.

APPROVAL OF MINUTES

Commissioner Talley moved to approve the minutes of the July 20, 2010 meeting as presented. The motion was seconded by Commissioner Wiley.

Motion passed 7-0.

CORRESPONDENCE

A revised packet was presented that included revised staff reports for the following:

Item 2A – CU-10-397
Item 2C – TA-10-386
Item 2D – TA-10-418

Mr. Youmans announced that the public hearing for item 2B, CU-10-410, would need to be postponed until September due to a public notification issue.

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

Chris Mohn, representing the Frederick County Planning Commission, stated that their August 5 meeting had been cancelled and that the upcoming meeting on August 18 has a light agenda with only three (3) items; a buffer waiver and two (2) minor Ordinance amendments.

PUBLIC HEARINGS – New Business

A. **CU-10-397** Request of Allen Cartwright, Jr. for a conditional use permit for a two-family dwelling at 362-364 Charles St (*Map Number 174-01-Q-36*) zoned Limited High Density Residential (HR-1) District.

Mr. Diem presented the request for a conditional use permit to allow for the rehabilitation and reuse of the subject property as a two-family dwelling. The dwelling was previously used as a two-family dwelling, however lost its nonconforming status due to lapse in occupancy of more than two years.

The subject property has been identified as derelict due to its extended period of vacancy and significant property maintenance concerns. Originally constructed as a two-family dwelling, it has since lost any claim to nonconforming status due to the lapse of more than two years since it was last occupied.

The property owner has responded to the City's most recent concerns regarding the condition of the property and intends to move forward with a complete rehabilitation, reuse and occupancy of the structure as a two-family dwelling. The use is permitted only with a conditional use permit in the HR-1 district. Separately, the applicant was required to seek relief from the BZA for certain dimensional requirements, including minimum lot area, lot width, setback, and side yard. The BZA approved the necessary variances on August 11, 2010.

Included with the application was a site plan sketch to address the off-street parking requirements. The two off-street spaces would be accessed by an alleyway which runs around the subject property to the west and north. A waiver of surfacing requirements (i.e. asphalt paving) is requested to allow the parking area to be surfaced with gravel. The proposed use and occupancy would be no more intensive to the neighborhood than what otherwise exists; and, would prevent the further blight and deterioration of an existing property.

Chairman Adams opened the public hearing.

Allen Cartwright, Jr., owner of the subject property, explained that he was trying to take care of the properties that he owns in the city. He stated that he took over the properties when his father became ill with Alzheimer's. He has previously rehabilitated a property on National Avenue successfully. He stated that rehabilitating this one as a two-family dwelling makes it financially feasible.

Chairman Adams closed the public hearing.

Commissioner Wiley asked if relatives would be using the property and if both sides would be rented.

Mr. Cartwright explained that it has not been determined who will be renting the units. It could be a relative renting one of the units, but he did not know for sure. He did state that both sides would be rented regardless.

Chairman Adams asked how long it had been vacant.

Mr. Cartwright stated approximately two years.

Chairman Adams stated that the use would be no more intensive than before. He asked if the alleyway was usable.

Mr. Cartwright stated that the alley is usable, but they would like to build a fence to prevent people in the alley from throwing trash in the yard and cutting through the corner of the property.

Vice-Chairman Shore moved to forward CU-10-397 to City Council recommending approval because the use, as proposed, should 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. The approval is subject to:

- 1) *Definition of rear parking area as depicted on the submitted site sketch; and,*
- 2) *A waiver of surfacing requirements for the rear parking area.*

The motion was seconded by Commissioner Talley

Motion passed 7-0.

B. CU-10-410 Request of Omps Funeral Home, Inc. for a conditional use permit for a crematory at 1560 Amherst St (*Map Number 150-15-3*) zoned Residential Office (RO-1) District.

Chairman Adams stated that action on the item would be postponed until the September 21, 2010 meeting. He asked if anyone in the audience was present to speak about the request. No one indicated that they were present for this item.

C. TA-10-386 AN ORDINANCE TO AMEND AND REENACT SECTION 18-9 OF THE WINCHESTER ZONING ORDINANCE PERTAINING FENCES

Mr. Diem presented the request that was intended to resolve certain concerns raised by citizens within the city, regarding the use of barbed wire fences in residentially-zoned districts.

As identified in the proposed text amendment, the provision pertaining to barbed wire fences and similar fencing materials, applies specifically to residentially-zoned properties in the LR, MR, HR, and HR-1 districts.

Previous review and discussion of the text amendment with the Commission resulted in modifications to the proposal, so as to not prohibit the ability of certain types of businesses and uses to maintain or erect barbed wire fences. Within the aforementioned zoning district classifications, those types of commercial or business uses would generally require a Conditional Use Permit; therefore, an exception is provided for within the amendment to allow for the fences in those districts if specifically approved through the CUP permitting process.

Chairman Adams opened the public hearing.

No one spoke regarding the amendment.

Chairman Adams closed the public hearing.

Commissioner Slaughter stated he was supportive of the revised version of the amendment and liked how it was written.

Chairman Adams stated that he agreed.

Commissioner Talley moved to forward TA-10-386 as identified in “Draft 3 – 8/17/2010,” to the Common Council of the City of Winchester recommending approval, as it is intended to further protect public health, safety, and welfare, and represents good planning practice within our residentially-zoned districts.

The motion was seconded by Commissioner McKannan.

Motion passed 7-0.

D. TA-10-418 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 13, 15, 16.1, 17, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO URBAN GARDEN DEFINITIONS AND USE PROVISIONS

Mr. Diem presented the request to define and allow for urban gardens in the City based on recent interest from citizens in the community; as well as, the City’s objectives of promoting environmental, social, and economic sustainability.

The Zoning Ordinance currently does not define uses related to urban gardens, nor does it provide for their inclusion in any zoning district classification. Further, the zoning ordinance does not recognize an opportunity for a private residential property owner or occupant to grow and sell produce on their property as a home occupation. As localities throughout the country and in the Commonwealth are identifying progressive concepts for promoting sustainability, the City has an opportunity to distinguish itself as a sustainable community through the adoption of this text amendment.

Some of the key components of the text amendment include definitions for both community gardens and market gardens, along with the use provisions for each in the various districts. The notion of a community garden is more closely related to a non-profit venture within a particular neighborhood; and, may be established on private or public property for the use and benefit of the residents within the immediate area. A market garden is allowed only through the conditional use permit process, and allows the operation of a for-profit garden with on-site sales.

Benefits to the community could include more fresh, local produce; use of previously undevelopable real property, social networking within neighborhoods, sustainability, and perhaps even a source of revenue for City-owned property through leasing of gardening spaces or plots as a future consideration.

Concerns that were identified at the work session were addressed in Draft 3 under Sections 18-10-8.1 and 18-10-8.3.

Chairman Adams opened the public hearing.

No one spoke regarding the amendment.

Chairman Adams closed the public hearing.

Vice-Chairman Shore stated that there are possible contaminants in the soil at certain locations in the city. He asked if there will be a process in place to determine if the product will be used for personal or market use.

Mr. Diem explained that there would be no other oversight unless there is a land disturbance issue. In the areas where there are questionable soils, raised beds could be used.

Vice-Chairman Shore explained that when he was working with Habitat for Humanity, an environmental study was done that determined that five acres on North Kent Street adjacent to the railroad was particularly dirty from uses that have gone on there, such as petroleum byproducts.

Chairman Adams stated that he does not see this as an issue. Places like Abex would not be used as a community garden when the soil would have to be considered.

Commissioner Slaughter asked if there would be any flexibility as far structures on the properties being permanent. He felt that a permanent structure may look nicer as opposed to something that is thrown up and taken down.

Chairman Adams explained that it may fall under the 8.3 section of the Amendment. They would also have to make sure that they have the consent of property owner regardless of it being temporary or permanent.

Mr. Diem pointed out that if the property is located in a Corridor Enhancement District or the Historic Winchester District there will be some control over the design of the structure.

Commissioner Talley moved to forward TA-10-418 as identified in "Draft 3 – 8/17/2010," to the Common Council of the City of Winchester recommending approval, as it is intended to further promote sustainability, public health, and welfare and represents good planning practice within the City.

The motion was seconded by Commissioner Sublett

Motion passed 7-0.

NEW BUSINESS

A. Administrative Authorizations:

- 1) **SP-10-370** JSB Associates 1930 S Loudoun St J.D. Byrider Auto Sales
Chairman Adams read the following into the minutes: At August 10, 2010 work session, Vice-Chairman Shore moved to grant administrative authorization for SP-10-370, including a driveway spacing exception pending response from the adjacent property owners. The motion was seconded by Commissioner Wiley. Motion passed 4-0-1. (Commissioner McKannan abstained; Commissioners Sublett and Talley absent).
- 2) **SP-10-476** PHR+A 2004 Valley Ave O'Sullivan Bldg 40 Improvements
Chairman Adams read the following into the minutes: At the August 10, 2010, work session, Commissioner Wiley moved to grant administrative authorization for SP-10-476, conditioned upon the granting of necessary variances by the BZA. The motion was seconded by Vice-Chairman Shore. Motion passed 5-0 (Commissioners Sublett and Talley absent).

B. Comprehensive plan Discussion

Mr. Youmans gave a brief overview of the draft version of Chapter 8, Community Facilities and Services.

He asked the Commission for input regarding the matrix of park facilities as to whether it should simply be referenced, including a hyperlink to its location in the Parks and Rec Master Plan, or if the matrix itself should be included in the Comp Plan chapter.

Chairman Adams stated that it would be preferable to include it in the hard copy. It would give a historic reference in the future.

Mr. Youmans agreed, stating that it is a helpful reference that could help guide future Council decisions.

Mr. O'Connor asked for clarification about a graphic that showed ½ mile walking radii from various parks within the City. There were areas not within the blue circles indicating the walking radii, but there were also red circles that were outside the areas.

Intern Matt Reges stated that the red circles were intended to specifically show areas of deficiency in primarily residential areas.

After discussion, it was agreed that the graphic should be revised to just show the areas within walking distance.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:02PM.

Nate Adams, III, Chairman