

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, January 18, 2011 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, Talley, and Wiley. (6)
ABSENT: None
EX-OFFICIO: City Manager O'Connor
FREDERICK CO LIAISON: None
STAFF: Youmans, Moore, Walsh, and Williams
VISITORS: Tim Painter, Samantha Anderson, Kit Molden, William Aikens

CALL TO ORDER: Mr. Youmans called the meeting to order at 3:00pm.

ELECTION OF OFFICERS

Mr. Youmans opened the floor for nominations for the position of Chairman. Commissioner Shore nominated Commissioner Adams. No further nominations were presented.

Mr. Youmans opened the floor for nominations for the position of Vice-Chairman. Commissioner Talley nominated Commissioner Shore. No further nominations were presented.

Commissioner Shore moved to elect the slate of officers. The motion was seconded by Commissioner Talley.

Motion passed unanimously.

Chairman Adams announced that committee appointments will be deferred until next month.

APPROVAL OF MINUTES

Commissioner Talley moved to approve the minutes of the December 21, 2010 meeting as presented. The motion was seconded by Commissioner Wiley.

Motion passed 6-0.

CORRESPONDENCE

A revised packet was presented that included the following:
Item 3B, TA-11-06 – revised staff report
Item 3C, Administrative Authorizations – Added SP-10-741 for consideration

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

The Frederick County Liaison was not present at the meeting.

PUBLIC HEARINGS – New Business

A. **RZ-10-712** AN ORDINANCE TO CONDITIONALLY REZONE 629 CEDAR CREEK GRADE (*Map Number 270-1-1*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY, B-2 WITH CE AND PLANNED UNIT DEVELOPMENT (PUD) OVERLAY, HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH CE AND PUD OVERLAY, AND HR WITH PUD OVERLAY TO B-2 WITH CE DISTRICT OVERLAY AND HR WITH PUD OVERLAY; AND, TO REVISE PROFFERS ASSOCIATED WITH CONDITIONAL ZONING OF 633 CEDAR CREEK GRADE (*Map Number 270-1-1A*) ZONED B-2 WITH CE AND PUD OVERLAY.

Mr. Youmans presented the request to refine the previously approved conditional rezoning of the subject sites. It amends the Master Development Plan and some of the zoning proffers for 629 & 633 Cedar Creek Grade and adjusts the underlying zoning boundary between the residential and commercial portions of the larger tract known as 629 Cedar Creek Grade. This parcel is proposed to be further subdivided and the zoning district boundary changes are aimed at aligning the zoning districts with the proposed property lines. The request also adjusts some of the overlay zoning including the PUD and CE overlay districts.

The Comprehensive Plan calls for a combination of Major Commercial, Open Space, and High Density Residential Use.

This 2011 proposal keeps many aspects of the 2008 Master Development Plan together, but refines the boundaries to account for a proposed subdivision of 629 Cedar Creek Grade such that the 48-unit apartment complex could be owned and managed separately from the current office complex. It entails changing some strips of the underlying zoning between HR to B-2 as last approved in 2008. The applicant is attempting to align the boundaries of the parcels, project phases, and zoning districts to simplify the patchwork of lines depicted on the maps for this development.

The pending proposal still calls for mixed use, with ground-floor commercial and two floors of residential above, in the Phase 2 area, identified as the Treybul parcel, but it would consist of two buildings rather than three as depicted in 2008. Phase 2 would include up to 14 dwelling units on the upper floors of the two mixed use structures. The total ground floor commercial space would amount to a maximum of 9,742 sq ft of commercial space.

The modified residential proposal for Phase 3 at the rear of 629 Cedar Creek Grade still calls for 4 apartment buildings each containing 12 units for a total of 48 dwelling units. The units would be situated along private roadways that also serve as parking lots similar in nature to the Pemberton Village and Stuart Hill projects in Meadow Branch South which is also zoned HR (PUD). No public street connection to Tower Ave is proposed. The proposed recreational amenities are mostly the same as previously approved with the exception of the gazebo. The half basketball court has been relocated from the southwest corner of the site to the area along Tower Ave where the existing office parking lot is located.

The applicant has submitted a revised Proffer Statement dated December 6, 2010 which addresses potential impacts arising from the revised zoning request. Proffer#1 calls for the development to be in general conformity with the Master Development Plan dated December 6, 2010. Proffer 2 continues the language from the previously approved proffer regarding the flexibility to undertake the Phase 3

development in advance of Phase 2, but updates the acreage and density yield in Phase 2. The proffer no longer references the approximate nonresidential square footage.

Proffer #3 remains unchanged. Proffer #4 retains the \$370-per-unit proffer that would result in upwards of \$22,940 for capital improvements in the City Parks and Recreation system if all 62 residential units are constructed. The payments would be made prior to the issuance of occupancy permits in Phases 2 and 3. On-site recreational amenities still include a paved basketball half-court, a sand volleyball court, grill and picnic tables. The previously included gazebo and the sidewalk connecting to Tower Avenue have been deleted. Extensive Green Area is also provided in the Phase 3 area. Proffer #5 continues the proffer of stormwater management which now includes water quality protection measures mandated by State Code. Proffer #6 ensures that the proposed property line will align with the proposed rezoning boundary.

Chairman Adams opened the public hearing.

Tim Painter, representing Painter-Lewis, explained that this rezoning will clean up the project by defining the zoning boundaries. He stated he would be available for questions, as well as the owner and potential developer.

Samantha Anderson, a resident on Tower Avenue, stated that the increase would result in additional traffic. She asked that if the rezoning is approved, that sidewalks be provided on Tower Avenue for pedestrian safety.

Vice-Chairman Shore asked Ms. Anderson to clarify.

Ms. Anderson stated that there are children in the area who walk in the middle of the road along the steep hill of Tower Avenue.

Chairman Adams closed the public hearing.

Mr. Youmans stated that he agreed with Ms. Anderson and that there should be a sidewalk on at least one side of Tower Avenue. He explained that as the development occurs, frontage improvements along Tower Avenue will be required by standards in the Subdivision Ordinance and the Zoning Ordinance. The fact that it is not shown on the rezoning master plan does not mean it will be exempted at the subdivision and/or site plan phases.

Chairman Adams stated that the request was a good idea because it will simplify things.

*Commissioner Wiley moved to forward **RZ-10-712** to Council recommending approval of the rezoning request as depicted on an exhibit entitled "Rezoning Exhibit RZ-10-712 Prepared by Winchester Planning, January 10, 2011" subject to the proffers in the Revised Proffer Statement dated December 6, 2010, and subject to the general layout as depicted on the exhibit entitled "Master Development Plan for 629 Cedar Creek Grade Residential and Business Center " prepared by Painter-Lewis, P.L.C. and dated December 6, 2010 with revisions dated January 5, 2011, because the rezoning represents good planning practice by expanding opportunities for high density, mixed use development in a suitable area.*

The motion was seconded by Commissioner Talley.

Motion passed 6-0.

- B. **SD-10-742** Request of Marsh & Legge Land Surveyors, PLC for preliminary subdivision approval for a subdivision with right of way dedication at 128, 132, and 136 Weems Lane zoned Highway Commercial (B-2) District.

Mr. Moore presented the request for approval of a major subdivision to dedicate right-of-way and construct an extension of Wilson Boulevard on the north side of Weems Lane.

The three subject lots are all nonconforming as to width, each being approximately 75' where the B-2 District requires 100'. The proposed subdivision would utilize land from the center lot to dedicate a 50' wide right-of-way for the northern extension of Wilson Boulevard. A boundary line adjustment would join the remaining 25' width of the center lot with the eastern lot to create a 100' wide conforming lot. Additionally, a strip of land from the front of the adjusted lot and from the western lot will be dedicated to facilitate future widening of Weems Lane.

Staff met with the applicant on a pre-application basis and agreed to recommend a waiver of complete plan and profile drawings for the proposed street extension. The applicant has provided a cursory plan depicting improvements and a projected construction cost estimate for review as requested.

The subdivision is required to proceed with the fulfillment of a proffered condition of a 2006 rezoning of the land to the north, which requires the extension of Wilson Boulevard into that property.

Chairman Adams opened the public hearing.

Tim Painter, representing Painter-Lewis stated that he was not the applicant but was the plan designer. He stated that he would be available for questions.

Chairman Adams closed the public hearing.

Commissioner Slaughter stated that the plan made sense.

Chairman Adams agreed and stated that it was necessary to fulfill the rezoning proffer.

Commissioner Shore moved to approve the preliminary subdivision SD-10-742.

The motion was seconded by Commissioner Wiley.

Motion passed 6-0.

NEW BUSINESS

- A. *Recommendation to Council:* **SD-10-742** Request of Marsh & Legge Land Surveyors, PLC for final subdivision approval for a subdivision with right of way dedication at 128, 132, and 136 Weems Lane zoned Highway Commercial (B-2) District.

Mr. Moore explained that following the Commission approval of the preliminary subdivision plat, the next step is for the Commission to make a recommendation to Council on the final subdivision. Unlike other major subdivisions that involve the creation of multiple lots and review of more detailed construction plans, this request is less complicated. If the Commission is satisfied, it would be appropriate to make the final recommendation at this time.

Chairman Adams stated that it makes sense to proceed with the final subdivision in this case.

Commissioner Talley moved to forward SD-10-742 to City Council recommending approval subject to:

- 1. Staff review and approval of the plats;*
- 2. Review and approval as to form of the Deeds of Dedication by the City Attorney;*
- 3. Provision of surety to cover any improvements that will not be completed prior to the recordation of the plats; and,*
- 4. Approval of a waiver of complete plan and profile drawings per Section 8-1 of the Land Subdivision Ordinance.*

The motion was seconded by Commissioner Slaughter.

Motion passed 6-0.

B. Motion to initiate: TA-11-06 AN ORDINANCE TO AMEND ARTICLE 1, SECTION 1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITIONS OF ACCESSORY STRUCTURE AND FAMILY

Mr. Youmans stated that no changes have been made since the proposed amendment was presented at the work session by Mr. Diem.

Vice-Chairman Shore stated he was concerned that a dwelling could be created in an accessory structure for a domestic employee, but that a subsequent owner of the property might think he has a right to use the dwelling as a rental. He asked if language could be added that would require the agreement to be recorded in the land records so that there was documentation of the dwelling's use.

Mr. Moore stated that staff could discuss how to address this concern prior to the public hearing next month.

Commissioner Wiley moved to initiate TA-11-06.

The motion was seconded by Commissioner McKannan.

Motion passed 6-0.

C. FOIA presentation by City Attorney

City Attorney Williams gave a brief presentation to the Planning Commission on the Freedom of Information Act. He stated that this is a condensed version of a larger presentation that he gives periodically and invited any interested Commissioners to attend one of those presentations.

D. Administrative Authorizations:

- 1) **SP-10-695** PHR+A 13 E Clifford St office parking

Chairman Adams read the following into the minutes: *At the January 11, 2011, work session, Commissioner Talley moved to grant administrative authorization for SP-10-695. The motion was seconded by Commissioner Slaughter. Motion passed 6-0.*

2) **SP-10-711** Greenway Engineering 120 S. Stewart St new office building

Commissioner Wiley moved to grant administrative authorization for SP-10-711. The motion was seconded by Commissioner McKannan. Motion passed 6-0.

3) **SP-10-741** OWPR, Inc. 1415 Amherst St FCPS Admin Bldg

Commissioner Shore moved to grant administrative authorization for SP-10-741. The motion was seconded by Commissioner Talley. Motion passed 6-0.

E. Comprehensive Plan Discussion

Mr. Youmans asked if the Commission had any input on the materials that were presented during the work session. Hearing none, he stated that staff anticipates having a draft of Chapter 4 - Economic Sustainability for the Commission to review in February. This chapter has been delayed repeatedly while waiting for the separate economic market study to be completed. Mr. Youmans suggested that whether or not that study is finished, the Commission should proceed so as not to delay the Comp Plan any longer.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:29PM.

Nate Adams, III, Chairman