

PLANNING COMMISSION  
MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, May 20, 2008 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**PRESENT:**            Planning Commissioners: Chairman Masters and Commissioners Adams, Weber, Willingham and Sublett.

Ex Officio & Staff: Griffin, Youmans, Diem, Grisdale, Moore, Walsh, Godfrey, & Lewis

Frederick County Liaison: Absent

**ABSENT:**            Shore and Talley

**VISITORS:**            Ned Cleland, John Harper, William Wood and Terry Hudson

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

**APPROVAL OF MINUTES:**

Mr. Weber, seconded by Mr. Adams, moved to approve the minutes of the March 18, 2008 meeting as presented. The motion carried 5-0.

**CORRESPONDENCE**

There was a revised agenda including:

1. Item 2b – Applicant’s Request to table RZ-08-06
2. Item 3d – Motion to Initiate TA-08-05
3. Revised Staff Report for CU-08-07
4. Resolution for TA-08-05
5. Staff Report for dedication of Right of Way at 2479 Papermill Rd.

**CITIZEN COMMENTS**

None

**REPORT OF FREDERICK COUNTY LIAISON**

None

## PUBLIC HEARINGS

**CU-08-07** Request of Sweet Caroline's LLC for a modification of conditions for an existing conditional use permit for a nightclub at 29 W. Cork Street zoned Central Business, B-1 District with Historic Winchester, HW overlay.

Mr. Moore presented the request of Sweet Caroline's to modify their current conditional use permit, which will give them more flexibility in booking larger acts during the week. The request is to specifically modify conditions 4 and 5 of the existing CUP pertaining to permitted nights of the week for nightclub use and ending time for the use. He added that staff has only been advised of one complaint since the CUP was issued, and that was a daytime noise complaint of an act doing a sound check to play later on in the evening. Mr. Moore suggested that the Commission could consider a model like the CUP for Piccadilly's Brew Pub which limits total number of nights per month as opposed to designating certain nights of the week.

Terry Hudson of 107 Oxford Ct, owner of Sweet Caroline's, spoke in regard to the complaint, stating that the incident was a miscommunication. The band had the doors open during their sound check resulting in the complaint. Mr. Hudson asked that the Commission take into consideration that he would like to add karaoke to the venue but he would have to have it once a week for it to be profitable. With limiting his nights per week it would make this impossible.

Ned Cleland, one of the owners of 19 W. Cork St stated that the issue with the sound check was not an isolated incident, and that there have been many days when his tenants have heard music coming from the building during the day. He has been unable to lease an office adjacent to the wall of the club because people simply don't believe that the business will only operate after regular business hours. He expressed concerns with bottles left outside after the close of business and people urinating outside the building. He claimed that this business has driven away his tenants. *Mr. Cleland left Council Chambers immediately following his remarks.*

Mr. Hudson stated that he was unaware of any problems other than that one sound check incident.

Chairman Masters closed the public hearing.

Mr. Sublett stated that it is his understanding that there have been no complaints from outside noise other than the sound check incident. He expressed concerns with putting restrictions on days and times. He felt that they should be given more flexibility to conduct business.

Mr. Willingham stated that Piccadilly's Brew Pub specifically requested the number of days (14) they felt was needed to provide entertainment. Mr. Hudson has stated that a limitation would be okay, but that fourteen days might not be enough. Mr. Willingham agreed with Mr. Sublett saying that expanding the number of days increases the chance for young people choosing to live and work in downtown to have access to entertainment.

Chairman Masters stated the CUP gives flexibility. She felt that a restriction of at least a half hour before closing should be given to allow people time to prepare to leave.

Mr. Adams expressed his concern for the neighbors, but then added that there aren't any neighbors present since Mr. Cleland left before any questions could be asked. He felt that it was possible that any

concerns that Mr. Cleland brought up could have taken place before the CUP was in effect. He agreed with both Mr. Willingham and Mr. Sublett stating that 20 days a month seemed reasonable. He asked that a condition be added stating that Sweet Caroline's staff be required to check for trash outside the facility after closing.

*Mr. Adams, seconded by Mr. Willingham motioned to forward CU-08-07 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. *Applicant applying for renewal of the CUP every three years;*
2. *The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
3. *A maximum of four (4) valid police calls per month, after which private security is required and/or the permit may be subject to revocation;*
4. *Nightclub use limited to no more than twenty (20) nights per month;*
5. *Nightclub use to end no later than 1:30AM on Saturday and Sunday mornings (Friday and Saturday nights) and no later than 1:00AM on Monday through Friday mornings (Sunday through Thursday nights);*
6. *The CUP expires automatically if the nightclub use changes to another use, the nightclub use ceases for more than one year, or if the nightclub business changes ownership;*
7. *All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use (including but not limited to customer age verification) to occur outside the building;*
8. *Maintenance of parking lot lighting and sufficient signs governing customer parking only, unauthorized vehicles to be towed and installation of no loitering signs; and,*
9. *Strict obedience with all local and state laws especially those pertaining to ABC licensing and payment of meals tax; and*
10. *The applicant is responsible for cleaning up any trash outside the facility after closing.*

*Motion passed unanimously (5-0).*

**CU-08-08** Request of Oakcrest Properties, LLC for a conditional use permit for multifamily dwellings within an existing structure at 163-165 North Loudoun Street zoned Central Business, B-1 District with Historic Winchester, HW overlay.

Mr. Youmans presented the request to permit 4 apartments on the upper two levels of the existing structure. The proposed units fall within the density standards. Oakcrest Properties LLC, intent to own the units and manage the rentals through its property management arm. They intend to market to single professionals and do not anticipate any school-aged children (although children are not prohibited through any age-restriction). The applicant plans to create a landscaped courtyard that will satisfy the minimum green area requirement.

Mr. Youmans stated that there has been no opposition to this request.

John Harper, representing the applicant was available for questions.

*Mr. Willingham, seconded by Mr. Weber motioned to forward Conditional Use Permit CU-08-08 to City Council recommending approval as presented because the use 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 staff approval of the related site plan depicting conformance with the green area requirements.*

*Motion passed unanimously (5-0).*

**CU-08-09** Request of SPCA of Winchester, Frederick and Clarke Counties for expansion of an animal shelter at 115 Featherbed Lane zoned Commercial Industrial, CM-1 District.

Mr. Moore presented the request to construct a 40'x100' outdoor dog run area and a 640 square foot storage addition to the existing SPCA facility. He presented an aerial shot of the property explaining that all surrounding property is zoned commercially. This would mean minimal impact on neighbors. The proposed addition is a two-story, 16'x20' building that will be used for material storage in conjunction with the shelter operation. Two smaller storage sheds and their concrete slab foundations are proposed to be removed in conjunction with the addition. A larger, unused concrete slab near the front of the property is also to be removed.

Will Wood, representing the SPCA explained that staff comes in at 7:00am to clean. In order to clean the kennels they have to put the dogs in the exercise yard which currently is only big enough for one dog. Currently they are taking out one dog at a time to clean, putting it back in and taking out the next one. This is very time consuming. He stated the staff works until 5:00pm and is closed on Sunday.

Mr. Adams suggested no limit to the time the dogs could be in the run. He explained that with the back of commercial buildings butting up to the property and the noise from the amount of traffic going by the affects on the neighbors should be minimal at any time of day.

*Mr. Weber, seconded by Mr. Adams motioned to forward CU-08-09 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. Staff review and approval of the related site plan,*
- 2. If the SPCA moves or ceases operation, the facility shall not be converted to a private kennel containing more than 25 animals.*

*Motion passed unanimously (5-0).*

**RZ-08-06** AN ORDINANCE TO CONDITIONALLY REZONE 1.02 ACRES OF LAND FROM CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY TO CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY WITH PROFFERS AT 326-328 AMHERST STREET AND TO CONDITIONALLY REZONE AN APPROXIMATELY 0.1 ACRE PORTION OF A PARCEL FROM CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY TO CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY WITH PROFFERS AT 104 SELMA DRIVE AND TO CONDITIONALLY REZONE AN APPROXIMATELY 0.3 ACRE PORTION OF THAT SAME PARCEL FROM RESIDENTIAL OFFICE, RO-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY TO CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY WITH PROFFERS.

*The motion was passed unanimously (5-0).*

**TA-08-02** Motion to Initiate – AN ORDINANCE AMENDING ARTICLE 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING VIOLATIONS AND PENALTIES

*Mr. Willingham, seconded by Mr. Weber motioned to initiate TA-08-02.  
Motion passed unanimously (5-0).*

**TA-08-03** Motion to Initiate – AN ORDINANCE AMENDING ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SPECIAL EXCEPTIONS FROM OFF-STREET PARKING AND LOADING REQUIREMENTS

*Mr. Weber, seconded by Mr. Sublett motioned to initiate TA-08-03.  
Motion passed unanimously (5-0).*

**TA-08-04** Motion to Initiate – AN ORDINANCE AMENDING ARTICLE 1, ARTICLE 8, ARTICLE 10, AND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITION OF PET DAYCARE CENTER, CONDITIONAL USES IN THE HIGHWAY COMMERCIAL (B-2) DISTRICT, PERMITTED USES IN THE COMMERCIAL INDUSTRIAL (CM-1) DISTRICT, AND REQUIRED NUMBER OF OFF-STREET PARKING SPACES

*Mr. Weber, seconded by Mr. Adams motioned to initiate TA-08-04.  
Motion passed unanimously (5-0).*

**TA-08-05** Motion to Initiate - AN ORDINANCE TO AMEND ARTICLE 9 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MULTIFAMILY USE IN THE CENTRAL BUSINESS, B-1 DISTRICT

*Mr. Willingham, seconded by Mr. Weber motioned to initiate TA-08-05.  
Motion passed unanimously (5-0).*

Motion for a written recommendation to Council in regard to exceptions per Section 8-1 of the Land Subdivision Ordinance for deviations from standards pertaining to subdivision of land and dedication of street right of way at 2479 Papermill Rd.

Mr. Youmans explained that this is a City-initiated request to seek exceptions to Subdivision Ordinance provisions to allow City Council consideration of a Major Subdivision request for a portion of the former Robinson Elementary School site which would entail dedication of public street right of way for future Hope Drive and PaperMill Rd and the creation of a parcel fronting only upon future Hope Drive. The request would permit Council approval of the plans without detailed plans and profiles of the proposed street and would waive the subdivision application fee and the subdivision surety requirements associated with bonding incomplete public improvements.

*Mr. Willingham, seconded by Mr. Sublett motioned to forward the request for exceptions per Section 8-1 of the Land Subdivision Ordinance to City Council recommending approval of deviations from standards pertaining to subdivision of land and dedication of street right of way at 2479 Papermill Rd on the condition that the City will not convey the proposed parcel of land to another party until such time that Hope Drive is fully designed and either built or bonded per Section 5-11 of the Subdivision Ordinance.*

*Motion passed unanimously (5-0).*

**ADJOURN**

With no further business to discuss, the meeting was adjourned at 4:10pm.

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Susan Masters, Chairman