

PLANNING COMMISSION  
MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, November 15, 2011 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**CALL TO ORDER:** Chairman Adams called the meeting to order at 3:01 pm.

**PRESENT:** Chairman Nate Adams, Vice-Chairman Dave Shore, and Commissioners Jennifer Beatley, Kevin McKannan, Stephen Slaughter, Kevin Talley and William Wiley (7)

**ABSENT:** None (0)

**EX-OFFICIO:** Councilor John Tagnesi and Interim City Manager Craig Gerhart

**STAFF:** Planner Will Moore, Zoning & Inspections Administrator Vince Diem and Secretary Paula Le Duigou (3)

**VISITORS:** Lori Bales, Blanca Lopez, Kenisha Bridgemohan, Carlton Vaughan, Wayne Lee, Steve Kapocsi, Jesse Levenson, Stephanie Levenson

**APPROVAL OF MINUTES**

*Commissioner Talley moved to approve the minutes of October 18, 2011 as presented. The motion was seconded by Commissioner McKannan.*

*Motion passed 7-0*

**CORRESPONDENCE**

Mr. Moore stated that a revised agenda packet had been provided to the Commissioners, including a request from staff to defer item 3A, two additional site plans for consideration, and the addition of discussion item 4C. A revised staff report for item 2A had also been provided.

**CITIZEN COMMENTS**

Chairman Adams stated that this was a time for citizens to address the Commission about items that were not scheduled for public hearing. None were forthcoming.

**REPORT OF FREDERICK COUNTY PLANNING COMMISSION LIAISON**

Chairman Adams stated that he had been contacted by Commissioner Mohn and that he would be unable to attend today's meeting and did not have anything to report at this time.

## **PUBLIC HEARINGS**

- A. **CU-11-534** Request of Lori K.F Bales and Ronald C. Bales for a conditional use permit for an accessory structure used and occupied as a subordinate dwelling unit by a domestic employee at 225 West North Avenue (*Map Number 153-01-A-16*) zoned Low Density Residential (LR) District.

Mr. Diem reviewed the request which would allow the property owners to use and occupy an accessory structure as a subordinate dwelling by a domestic employee. The subject property is zoned Low Density Residential (LR) District and is completely surrounded by similarly zoned parcels. The parcel currently consists of a detached single-family dwelling and accessory structure.

City staff initially received a report of an individual residing in an accessory structure at the subject property on December 14, 2010. In response to the complaint, staff investigated the matter further and identified an adult female appearing to reside in the accessory structure. The determination was based on observations of the woman leaving the secondary residence each morning at or about 7:50AM. Staff also discovered that a disclaimer was signed and notarized by Lori K. F. Bales, on April 18, 2006, at the time of issuance for the building permit to construct a two-story accessory structure. The purpose of the disclaimer, noted as an AFFIDAVIT FOR BUILDING PERMIT RELEASE, was to advise the applicant that residential use of the accessory structure, as a separate dwelling unit, would not be permitted. A notice of violation was prepared and sent to the property owner on December 21, 2010, citing that the change of use of the accessory structure to a separate dwelling unit constituted a violation of the zoning ordinance.

In response to the notice of violation, the property owner visited the Zoning & Inspections Department on January 6, 2011, and reported that the adult female occupant was serving as a domestic employee for the property owners. Recognizing the potential benefit for other property owners within the City, a text amendment was drafted and subsequently approved by City Council (TA-11-06), which would allow this type of dwelling arrangement through the Conditional Use Permit process.

The applicant has submitted a letter of request, citing that they have hired a domestic employee to assist their family with general household services. They do not anticipate any impact of use. In accordance with the use, as defined and enabled through the Zoning Ordinance, staff recommends that this CUP be granted.

### **Chairman Adams opened the Public Hearing**

Lori Bales stated that she had enclosed a letter with the notices of the public hearing that were mailed to the adjacent property owners. She read the letter to the Commission:

Dear Neighbors,

Our names are Chad and Lori Bales and we live at 225 W. North Avenue. Enclosed you will find a letter which notes the date and time for the upcoming public hearing related to our Conditional Use Permit application. We would like, in advance, to let you know why we are applying for this permit.

As we are very committed to never overcrowding our neighborhood, we do have an adjacent structure, our garage, which has a fully furnished apartment. We would like to be able to use this apartment as a living space for a young, responsible woman who will help us with child care and pet care. We have plans to subdivide our property or ever allow a family or pets to move in.

Chad and I both have full time careers and do not have family members who live close enough to help us with child care. Therefore, we need to work out alternative ways to take care of our children and pets. By allowing a caregiver to live in our apartment, it allows us the peace of mind we need to make our careers and lives function best.

We want to assure you that we would never tolerate any visual or noise nuisance. We respect your right to have the same living situation you've always had and welcome any feedback or concerns you may have now or in the future.

If you support our desire to have this Conditional Use Permit and are not able to attend the public hearing, would you please sign the enclosed letter and kindly mail it back to me to present to at the meeting? Please contact us at 540-974-1544 or 540-974-1542 any time with any questions you may have.

Sincerely,

Chad and Lori Bales

Ms. Bales stated that she had received 12 responses indicating support for their request and no one expressed opposition.

**Chairman Adams closed the public hearing.**

Commissioner Wiley asked the applicant if she was aware of the recommended conditions that the Commission is looking at.

Ms. Bales stated that she was.

Commissioner Wiley had a question regarding storage and why Mr. Diem used it as an example of possible changes that could affect the conditional use permit status.

Mr. Diem stated he felt that that was one possible change that could cause them to abandon the use as proposed and force them to come back to the Commission to seek another conditional use permit.

Commissioner Wiley stated that he could understand a home occupation example, but if they wished to use the space for storage, he felt it was a gray area and wanted to clarify his understanding and be certain that it met the conditional use requirements.

Mr. Diem stated that staff had no objection concerning storage.

Chairman Adams asked when the official report was made, was it just the fact that someone was living in the apartment that prompted it, or was there another concern.

Mr. Diem stated that the individual who reported it asked if staff was aware that someone was living in the apartment. It did not stem from any incident that was causing issue in the neighborhood.

Chairman Adams asked if the permit were approved, how many people could live in the apartment.

Mr. Diem stated that the ordinance will allow up to two domestic employees. He said that you would also have to look at the square footage of the space to determine how many it can accommodate.

Chairman Adams stated that he did not see that allowing this use would have an adverse affect on the neighborhood.

Vice-Chairman Shore asked what the square footage of the space was.

Ms. Bales stated that the space was 1000 square feet with an open floor plan.

Vice-Chairman Shore stated that this was exactly what the intention of the ordinance.

*Vice Chairman Shore moved to forward **CU-11-534** to City Council recommending approval because the use, as proposed, should 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 subject to:*

- 1. Reapproval required in three years;*
- 2. The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
- 3. The definitions of accessory structure, domestic employee, and family, as provided for in Section 1-2 of the Winchester Zoning Ordinance, shall apply, to include documentation submitted to the Zoning & Inspections Administrator establishing and affirming the employment relationship of the domestic employee; and,*
- 4. The CUP expires automatically if the subordinate dwelling unit changes to another use (i.e., storage, home occupation) or if the subordinate dwelling unit use ceases for more than one year, in accordance with Section 18-2-3.8 of the Winchester Zoning Ordinance.*

*Motion was seconded by Commissioner Wiley.*

*Motion passed 7-0.*

- B. CU-11-582** Request of Blanca Lopez dba Perlita's Mexican Restaurant for a conditional use permit for expansion of an existing nightclub use at 101-103 Weems Lane (*Map Number 271-04-101*) zoned Highway Commercial (B-2) District.

Mr. Diem reviewed the request for a conditional use permit in order to expand an existing nightclub use into a neighboring tenant space. The subject property is located adjacent to the intersection of Weems Lane and Roosevelt Boulevard and currently consists of a commercial center with a variety of retail, personal service, restaurant, and office uses. The property is zoned Highway Commercial (B-2) District and is surrounded by similarly zoned parcels, with exception to High Density Residential (HR) District zoning immediately adjacent to the southern portion of the property along Wilson Boulevard.

As the result of a Community Response Team (CRT) investigation, it was determined that efforts to expand the existing nightclub into an adjoining tenant space had occurred, absent the following approvals: a building permit; ABC application for expansion; CUP application for neither an expansion of use; nor, an Admissions License from the Commissioner of the Revenue. A concert was advertised with a ticket price of \$35, which required that an Admissions License be applied for and approved. Immediately after being notified of the building code and City ordinance violations, the business owner submitted the required forms and application materials to correct the omission. She explained that she had contacted the Fire Marshal's office and asked for assistance prior to initiating the interior alterations; however, had not received a return call.

In addition to the unauthorized expansion attempt, the Police Department has received noise complaints from residents within the vicinity, reporting loud noises emanating from the establishment during late evening/early morning hours. The decibel meter was utilized in response to those calls for service; however, the officers did not have the CUP list of conditions at the time of the reported offense. The sound was instead measured from the receiving property and not immediately outside the establishment, as provided for within the imposed conditions. Therefore, it is unclear as to whether a violation of the CUP had occurred.

Other alleged concerns pertaining to sales and consumption of alcoholic beverages to underage patrons have been reported and are continuing to be investigated. A response is pending from the Staunton regional office of the Virginia ABC. Mr. Diem stated that he spoke with Special Agent Weatherholtz regarding the ABC matters. He explained to Mr. Diem that the applicant had submitted an application to expand the night club area to ABC and has been approved. Mr. Diem said that there are no violations on file with the establishment, and regarding the underage consumption of alcohol, that is pending adjudication in the local court system. The estimated time period for resolution is one to two months. Mr. Diem said that if there is a conviction ABC indicated that there would be either a \$2000 fine or a loss of license for 25 days, and the applicant will have the choice as to which they would prefer. Mr. Diem said that he was encouraged that there were no other violations and that ABC felt comfortable approving the application.

The business was issued a conditional use permit for nightclub use in its existing tenant space on July 12, 2011. The existing permit is scheduled for a six-month review and re-approval every three years thereafter.

Mr. Diem stated that staff recommended that the Commission forward the request to City Council recommending approval because by that time we may know more. If the CUP were to be approved by Council, and ABC were to come back and say there were other reports made of underage drinking, there would still be options where they could go back to operating as a restaurant. Mr. Diem stated that he feels that the suggested conditions, including the recently adopted noise control limits, will make it easier for the police department to enforce limits.

**Chairman Adams opened the public hearing.**

No one spoke about the request.

**Chairman Adams closed the public hearing.**

Vice-Chairman Shore asked Mr. Diem how many noise complaints were received.

Mr. Diem said that there were two to three complaints received over a two to three month period, primarily on Saturday evenings.

Vice-Chairman Shore asked when their CUP was initially approved.

Mr. Diem responded July 2011.

Vice-Chairman Shore asked if any of the complaints activate any of the other conditions of the CUP.

Mr. Diem said that it wouldn't meet the conditions set in #4 as there would need to be three or more incidents in one month to do that. Mr. Diem said that the complaints about noise that had been measured by the police department were not measured at the establishment but at the residence where the complaint was made, so it doesn't fit the criteria for enforcement from that perspective.

Chairman Adams suggested that a six month review period be imposed rather than a three year review.

Mr. Diem agreed.

Commissioner Beatley asked if this was an expansion of the existing conditional use permit and, as such, is it already scheduled for review in six months.

Mr. Diem confirmed that it was.

Commissioner Beatley asked if the expansion would be part of that review.

Mr. Diem said that it could be, but because they are expanding the floor area and doubling the size of the establishment, it would be viewed as a new application. The conditional use permit that exists for 101 Weems Lane will remain intact and is subject to review in a January timeframe and could be renewed at that point.

Commissioner Talley confirmed with Mr. Diem the possible consequences of the ABC action to the underage drinking charge. Commissioner Talley said that while Mr. Diem was recommending this to Council, it may still not be resolved by the time Council decides on it.

Mr. Diem confirmed that that was so.

Chairman Adams asked that, since the expanded use will be reviewed in six months, if there a necessity for review of the initial CUP as well.

Mr. Diem said that he did not believe that this would supersede a previously issued conditional use permit.

Vice- Chairman Shore stated that he did not have a good feeling about this application based on the previous complaints with the Police department and the criminal complaint lodged against the establishment. He stated that he felt that with the request to double the use it could bring more issues and was not consistent with the good faith that this establishment should be showing on running their business. He said that he was not in support of this request and suggested that it be tabled for two months to see the outcome of the criminal case. If not, he felt that the request should be denied and to let the applicant run the business as it has been and return in a year to see how things had been during that time period.

Commissioner Talley stated that he agreed to a point with Vice-Chairman Shore concerning the criminal and noise issues and would like to allow the applicant four months to see how the noise levels and criminal charge resolve.

Chairman Adams stated that, at the work session, there were discussions concerning the impact that tabling the request may have and how long the Commission has to make a decision. He inquired what Mr. Diem had been able to learn about this possible outcome.

Mr. Diem stated that the City Attorney recommended, based on statute, stated that the Commission would use the twelve month rule. He said that, given the circumstances, tabling the request for three to four months would be appropriate.

Chairman Adams said that even if the request were tabled for three to four months, it would still be subject to the initial review period for the original conditional use permit. He said this would give time to see how things pan out.

Commissioner Wiley asked the applicant if she was aware of the complaints and if she had any comments to make regarding them.

The applicant, Blanca Lopez, stated that she was aware of some complaints that she had learned of via Facebook.

Commissioner Wiley asked if the applicant had spoken with the individuals who made the complaints and if she had done anything proactively to address them.

Ms. Lopez stated that the comments on Facebook were individuals making nasty remarks and not necessarily talking about noise. She has not had any complaints directly from neighbors.

Commissioner Wiley clarified with Vice-Chairman Shore what they were attempting to resolve by tabling the request, to determine whether there are valid criminal complaints, and if it were likely that there would be more in the future.

Commissioner Slaughter and Mr. Diem discussed the area and who may have made the complaints concerning noise. Mr. Diem clarified that complainants are protected from being identified.

Vice-Chairman Shore asked Mr. Diem if the same individual made all the complaints.

Mr. Diem confirmed it was.

Commissioner Wiley stated that his concern was whether the individual making the complaints was legitimate or not.

Mr. Diem said that the Police did respond to the complainant and sound levels were taken at their home.

He said that he was unaware of all of the details, but that the Police Department would have them.

Commissioner Slaughter stated that according to the conditional use permit, the readings that were taken were not done properly, but he still wanted to know if it was known what those readings were.

Mr. Diem stated that they were in the mid-50 decibels.

Chairman Adams asked if the expansion is approved with a six month review, and the complaints result in an ABC conviction, can the review period be moved up four months.

Mr. Diem stated that it could if it is included in the conditions as adopted.

Chairman Adams said that he was attempting to see what the difference would be between tabling the request versus a six month review period on the expanded use. He said that the six month period should give the Commission a clear view of what had transpired. Chairman Adams asked that if the permit is revoked, would it go back to its original form.

Mr. Diem said it would.

Commissioner Slaughter asked if the permit would go back to its original parameters if this new request were rejected.

Mr. Diem said that it would and described the current layout of the restaurant and nightclub on the overhead projector.

Commissioner Slaughter stated that the applicant would still be able to operate the restaurant even if the new request were not approved. He stated that he didn't like the request in light of the issues, but practically speaking they were operating half of the space already so it makes sense to move the request along. He felt that to not move the request along would place a burden on the applicant because they would only be able to operate half their space.

Vice-Chairman Shore said that if the applicant had not begun the work without permits, they would not be in the position they were in now with unusable space. He also stated that he was very concerned about the underage drinking complaint and asked Mr. Diem if he knew what the circumstances were behind that.

Mr. Diem stated that he had limited knowledge of the case.

Commissioner Slaughter asked Mr. Diem if the review process was robust enough for him to respond to any issues that may arise.

Mr. Diem stated that it was and that the assistance of the CRT unit working in concert with the Zoning Department gave it enough bite to be effective.

Vice-Chairman Shore said that to close down or to terminate the conditional use for the nightclub if there should be serious issues later certainly will be harder than if the request is tabled for four months and we find that there are some ongoing issues than if we just deny the request. Vice-Chairman Shore asked Mr. Diem if it was difficult to terminate a conditional use permit.

Mr. Diem stated that if it was in violation it would be an action item on the agenda for the City Council work session and then on the following month, a City Council public hearing would be held. He said it would be approximately a two month process.

Vice-Chairman Shore asked Mr. Diem how many active nightclubs there were in the City.

Mr. Diem stated that there were eight with conditional use permits, and some others that were grandfathered.

Vice-Chairman Shore said that he did not believe that there was any one establishment operating that had this many complaints in such a short period of time, and doubling its size may be asking for more trouble.

Chairman Adams asked Mr. Diem if the applicant could technically move more tables over to the other side and run it as one large restaurant. Mr. Diem stated that they could.

Mr. Tagnesi asked if a noise complaint was considered a criminal offense.

Mr. Diem stated that historically criminal offenses were assault and battery, theft.

Mr. Tagnesi interrupted and asked Mr. Diem if any of these had occurred.

Mr. Diem stated that he was unaware of any.

Mr. Tagnesi asked Mr. Diem to confirm that none of the complaints were criminal in nature.

Mr. Diem confirmed that that is correct.

*Commissioner Slaughter moved to forward CU-11-582 to City Council recommending approval because the use, as proposed, should 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 subject to:*

- 1. Review required after at least three months, but no later than six months. Reapproval required three years thereafter;*
- 2. The business shall comply with applicable noise and maximum sound level regulations per Sections 17-6 and 17-7.1 of Winchester City Code, as amended;*
- 3. The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
- 4. A maximum of three (3) criminal offense police calls per month within or attributable to the establishment, after which the permit may be subject to revocation;*
- 5. The applicant shall provide security personnel during nightclub use;*
- 6. Nightclub use to cease no later than 11:59pm Sunday through Wednesday night and no later than 1:30am Thursday night/Friday morning through Saturday night/Sunday morning;*
- 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 of the building;*
- 8. Strict compliance with all local and state laws, especially those pertaining to ABC licensing and payment of meals tax, admissions tax, and annual business licenses;*
- 9. The applicant is responsible for cleaning up any trash outside the facility after closing; and,*
- 10. The CUP expires automatically if the nightclub use changes to another use or if the nightclub use ceases for more than one year, in accordance with Section 18-2-3.8 of the Winchester Zoning Ordinance.*

*The motion was seconded by Commissioner Wiley.*

*Motion passed 7-0.*

- C. **CU-11-585** Request of Kenisha Bridgemohan dba Island Delights Caribbean Restaurant, LLC, for a conditional use permit for expansion of an existing nightclub use at 821 North Loudoun Street (*Map Number 134 -05-6*) zoned Highway Commercial (B-2) District.

Mr. Moore reviewed the request for a conditional use permit to allow the existing restaurant with nightclub use to expand into an adjacent tenant space.

The site is located in a commercial center which is zoned Highway Commercial, B-2. Adjacent land to the north, southeast, and east is zoned B-2 and contains a variety of commercial uses. Land to the west, which fronts on N. Braddock Street, is zoned HR and contains multi-family use. Land to the southwest, which fronts on Jackson Ave, is zoned HR-1 and contains single-family and multi-family residences.

The business was issued a conditional use permit for nightclub use in its existing tenant space in December of 2009. The existing permit is valid until June 2013. The current space is approximately 5000sf in area. An adjoining, 1175sf tenant space has become available and the business plans to expand into this space.

Mr. Moore reviewed the conditions imposed with the existing permit.

Staff consulted with other departments on the request. The Chief of Police advised that the Police Department has no issues with the business and reported that calls for issues have been very low with this location. The Treasurer advised that the business has paid business furniture and fixtures tax on time the last two years, business license is paid for 2011, and meals appear to be up to date. The Commissioner of Revenue advised that her office has no outstanding concerns with the business.

**Chairman Adams opened the public hearing.**

No one spoke about the request.

**Chairman Adams closed the public hearing.**

Chairman Adams stated that the recommendation was for up to four police calls per month, but the previous request for Perlita's was for up to three.

Mr. Moore stated that the Commission could alter that condition. Staff included it as four because that is what is currently imposed and felt it would not necessarily be fair to impose a stricter condition when the applicant has been in compliance.

Chairman Adams stated that it should not be an issue for the business if they are in compliance. He would prefer to change it to three police calls.

Commissioner Slaughter stated that he agreed.

*Commissioner Talley moved to forward CU-11-585 to City Council recommending approval because the use, as proposed, should 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 subject to:*

1. *Reapproval required in three years;*
2. *The business shall comply with applicable noise and maximum sound level regulations per Sections 17-6 and 17-7.1 of Winchester City Code, as amended;*
3. *The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
4. *A maximum of three (3) criminal offense police calls per month within or attributable to the establishment, after which the permit may be subject to revocation;*
5. *The applicant shall provide security personnel during nightclub use;*
6. *Nightclub use to cease no later than 11:59pm Sunday through Wednesday night and no later than 1:30am Thursday night/Friday morning through Saturday night/Sunday morning;*
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 of the building;*
8. *Strict compliance with all local and state laws, especially those pertaining to ABC licensing and payment of meals tax, admissions tax, and annual business licenses;*
9. *The applicant is responsible for cleaning up any trash outside the facility after closing; and,*
10. *The CUP expires automatically if the nightclub use changes to another use or if the nightclub use ceases for more than one year, in accordance with Section 18-2-3.8 of the Winchester Zoning Ordinance.*

*The motion was seconded by Vice-Chairman Shore.*

*Motion passed 7-0.*

### **OLD BUSINESS**

- A. Resolution to initiate: **TA-11-450** AN ORDINANCE TO AMEND AND RE-ENACT ARTICLES 1, 8, 9, 10, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO NIGHTCLUB RESTAURANTS, PUBLIC DANCE HALLS AND FEES

Chairman Adams stated that this item was being deferred at this time per the request of staff.

### **NEW BUSINESS**

- A. Recommendation to Council: **TP-11-620** Request of Frederick County Public Schools for permit renewal for two mobile office units at 1313 Amherst Street (*Map Number 170-01-1*) zoned Residential Office (RO-1) District with Corridor Enhancement (CE) District overlay.

Mr. Moore reviewed the request for periodic renewal of a permit for two mobile office units located in the James Wood Middle School (JWMS) parking lot. Currently, there are six mobile units located in the parking lot at JWMS. The applicant is proposing to relocate four of these units to the rear of the administration annex building on the adjacent property the west. The applicant is requesting renewal of the permit for the two remaining units on the JWMS property. The overall plan is the eventual removal of all mobile units from the properties. Recent construction of the administration annex building and ongoing renovations to the main administration building show progress toward this end.

The two units requested for renewal are proposed to be removed by the summer of 2012. After their removal, and with the relocation of the four remaining units to the rear of the annex, no mobile units will remain in a sight line along the Amherst Street entry corridor.

After a brief discussion, *Vice-Chairman Shore moved to forward TP-11-620 to City Council recommending approval of the permit renewal for two mobile office units as depicted on the submitted drawing dated 11/1/11. The recommendation is subject to removal of the two units no later than August 31, 2012.*

*The motion was seconded by Commissioner McKannan.*

*Motion passed 7-0.*

B. Administrative Authorizations:

- 1) **SP-11-606** Jesse & Stephanie Levenson 29 W. Cork St. Sweet Caroline's Pavilion

Mr. Moore, referring to the overhead map, explained the request to the Commissioners. The Commissioners discussed the use of the chain to close off the parking area, as well as the area as a loading zone and traffic pattern concerns.

*Commissioner Wiley moved to grant administrative authorization for SP-11-606 as presented.*

*The motion was seconded by Commissioner McKannan.*

Chairman Adams stated that he was concerned about the aesthetics of the chain and possible safety issues.

Vice-Chairman Shore asked if there was any recourse or provision for change if there were a rash of accidents that occurred.

Mr. Moore stated that he was confident that if any issues were to arise that the applicant would be willing to work with staff to resolve them.

*Motion passed 6-1 (Chairman Adams in the negative).*

- 2) **SP-11-645** Mike Artz c/o Marsh & Legge 1873 Valley Ave Malloy Ford - display area

Mr. Moore laid out the site plan and the Commissioners briefly discussed the request.

Mr. Gerhart asked if it would be better to have the applicant build part of the Green Circle Trail rather than just grant an easement.

Mr. Moore stated that the Planning Director had negotiated with the applicant about waiving the sidewalk requirement in conjunction with the granting of the 10' easement. He stated that the Planning Director is also coordinating the Green Circle Trail Committee, so this is likely what was desired.

*Vice-Chairman Shore moved to grant administrative authorization for **SP-11-645**.*

*The motion was seconded by Commissioner Talley.*

*Motion passed 7-0.*

3) **SP-11-646** Greywolfe, Inc. 2705 S Pleasant Valley Rd, Dixie Beverage cooler

Mr. Moore laid out the site plan and the Commissioners briefly discussed the request.

*Commissioner Talley moved to grant administrative authorization for **SP-11-646**.*

*The motion was seconded by Commissioner Slaughter.*

*Motion passed 7-0.*

#### C. Follow-up discussion regarding Form-Based Code District

Mr. Diem stated that the contract with the consultant will expire at the end of the year. He said that the next five weeks should be sufficient time to complete our draft FBC ordinance, but he needs input from the Commissioners pertaining to compatible use categories within FBC districts. After brief discussion, it was agreed that Mr. Diem would email a matrix of uses along different street types to the Commissioners and they would weigh in on what uses they felt were appropriate.

#### **ADJOURN**

With no further business to discuss, the meeting was adjourned at 4:40 p.m.