

PLANNING COMMISSION
MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, December 20, 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 3:00 pm.

PRESENT: Chairman Nate Adams, Vice-Chairman Dave Shore, and Commissioners Kevin McKannan, Stephen Slaughter, Kevin Talley and William Wiley (6)

ABSENT: Commissioner Jennifer Beatley (1)

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

FREDERICK CO LIAISON: Commissioner Mohn

STAFF: Planning Director Tim Youmans, Planner Will Moore, Zoning & Inspections Administrator Vince Diem and Secretary Paula Le Duigou

VISITORS: Tom Dick, Reid Herlihy, Ron Mislowsky

APPROVAL OF MINUTES

Commissioner Talley moved to approve the minutes of the November 15, 2011 regular meeting as presented. The motion was seconded by Vice-Chairman Shore.

Motion passed 6-0

CORRESPONDENCE

Mr. Youmans stated that the agenda had been revised to add item 3B2, an additional site plan for consideration, and item 3C, follow-up discussion on the Form-Based Code District.

Mr. Youmans presented the Commissioners with printed copies of the new Comprehensive Plan and credited Mr. Moore with working with the consultant to put it together. Chairman Adams stated that he was pleased with the new Plan.

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

Commissioner Mohn reported on items from the December 7 meeting, including the Tasker Road Comprehensive Policy Plan Amendment, the draft 2012-2013 Capital Improvements Plan, and review of the Commission's by-laws and rules. He stated that the next meeting will be January 4, 2012 and that the Eastern Frederick County Land Use Plan working groups had completed their work and will be reporting.

PUBLIC HEARINGS

- A. CU-11-630** Request of DBL Holdings, LLC for a conditional use permit for a two-family dwelling at 386-388 Charles Street (*Map Number 174-01-Q-27*) zoned Limited High Density Residential (HR-1) District.

Mr. Moore reviewed 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 it lost its nonconforming status due to lapse in occupancy of more than two years.

The subject property is located entirely within the HR-1 zoning district and is surrounded by a mixture of housing types within a residential neighborhood. The property is bordered by Charles Street on the southern boundary and an alley is immediately adjacent to the north and east.

The request is part of an effort to abate the blighting influence created by a vacant, deteriorating, and unfit structure located at the subject property. A preliminary determination of blight was issued to the property owner. The owner's plan of abatement includes restoration of the structure to at least the minimum building code requirements, and re-use and occupancy of the structure as a two-family dwelling. The nonconforming structure had previously been used and occupied in that capacity; however, the nonconformity has lapsed as the use and occupancy have not been maintained for a period of two years or more.

Included with the application is a site plan sketch to address the off-street parking requirements. Four off-street spaces would be accessed by an alleyway which runs around the subject property to the east and north. Two spaces would be stacked behind each dwelling; however, the required spaces (1 per unit) will be unobstructed. 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.

The request is also dependent upon variances being granted for certain dimensional deficiencies, including lot area, lot width, main building setback, and side yard. The variance requests were heard by the Board of Zoning Appeals on December 14, 2011 and approved as presented.

Chairman Adams opened the public hearing

Mr. Tom Dick of DBL Holdings addressed the Commission. He stated that the subject property was one of the older properties in their inventory and that their intention was to get it into shape as well as provide more affordable housing.

Commissioner Wiley asked why the property had gone unused for an extended period.

Mr. Dick stated that it was in part due to the economy. He said that they had turned twelve properties around to be sold, but that this property had been uninhabitable since its purchase and that it was time to improve it.

Commissioner McKannan asked how long it would take to make the improvements.

Mr. Dick stated that he was granted nine months by the Zoning Administrator, but it should be completed much sooner based on the work and subsequent inspection process.

Chairman Adams closed the public hearing

Commissioner Adams stated that this was a win/win situation by abating blight and bringing back a two-family dwelling and could not see any adverse impact from the improvement. He said that he was sorry that it took a spot blight abatement to precipitate the change.

Mr. Dick stated that he agreed and pointed out a similar property that had been improved. He said that this property was one of a large group of properties that had slowly been improved to get to the remaining ones that required work, and they are committed to do so.

Commissioner Slaughter moved to forward CU-11-630 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 approval is subject to:

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

The motion was seconded by Commissioner Talley.

Motion passed 6-0.

B. RZ-11-669 AN ORDINANCE TO REZONE AN APPROXIMATELY 1.0 ACRE PORTION OF LAND AT 110-140 KEATING DRIVE (*Map Number 149-01-6*) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CE DISTRICT OVERLAY. The Comprehensive Plan calls for medical and general office uses on the periphery of the Medical Center District.

Mr. Youmans reviewed the request to rezone the frontage portion of the Sacred Heart Church and Academy parcel from LR to RO-1 district. The rezoning would permit use of the section of Keating Drive closest to Amherst Street for access to and from proposed office development on an adjacent vacant tract that fronts along Amherst Street to the east.

The site is zoned LR. Land immediately to the east was just rezoned on a conditional basis to RO-1 in anticipation of office development. Land further to the east, including the former Candy Factory site and the Frederick Co School properties, is zoned RO-1. Land further to the west of Keating Dr is zoned B-2 and includes the CVS site. Land along the north side of Amherst St is all zoned RO-1. The subject portion of the site along Amherst St has Corridor Enhancement (CE) overlay zoning on it. No change to the CE overlay zoning is proposed.

The Comprehensive Plan calls for medical and general office uses on the periphery of the Medical Center District. This rezoning request brings the zoning into conformity with the adopted Plan. The developer of the property immediately to the east is proposing a single office building on the site that would not have direct access to/from Amherst Street with a commercial entrance. That parcel will utilize the existing ingress-egress easement on Keating Drive that was established when Keating Drive was constructed.

The Zoning Ordinance does not allow office traffic to traverse a residentially zoned property even though there is a private agreement in place to specifically allow this. The majority of the Sacred Heart parcel will remain zoned LR. Places of Worship and Schools are permitted by right in both the existing LR District as well as the proposed RO-1 District, so there is no negative impact caused by this frontage rezoning with regard to the existing church and school or any additions thereto in the future. Mr. Youmans stated that there were no proffers with this request and that the overall impact was positive.

Chairman Adams opened the public hearing

Mr. Reid Herlihy of the Diocese Building Construction Program stated that he was available to answer any questions that the Commission might have.

Chairman Adams closed the public hearing

*Commissioner Wiley moved to forward **RZ-11-669** to City Council recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-11-669, Prepared by Winchester Planning Department, October 31, 2011" because the request is generally consistent with the recommendation in the Comprehensive Plan which calls for medical and general office uses on the periphery of the Medical Center District.*

The motion was seconded by Vice-Chairman Shore.

Chairman Adams stated that his only concern, which was discussed in the work session, was the potential for development on the western side of Keating Drive. He stated that given the fact that the stormwater management in that area essentially makes it impossible, he has no problem with this request and that it was necessary.

Motion passed 6-0.

NEW BUSINESS

- A. Resolution to initiate: **TA-11-692** AN ORDINANCE TO COMPREHENSIVELY AMEND THE WINCHESTER ZONING ORDINANCE TO CORRECT SCRIVENER ERRORS IN SECTION NUMBERING.**

Mr. Moore stated that this was discussed in the work session and is intended only to correct erroneous numbers that were assigned in recent text amendments. This amendment would be scheduled for public hearing in January.

*Commissioner Talley moved to initiate **TA-11-692** AN ORDINANCE TO COMPREHENSIVELY AMEND THE WINCHESTER ZONING ORDINANCE TO CORRECT SCRIVENER ERRORS IN SECTION NUMBERING.*

The motion was seconded by Commissioner Slaughter.

Motion passed 6-0.

- B. Administrative Authorization(s):**

- 1) **SP-11-696** PHR+A 1460 University Drive Shenandoah University - Sarah's Glen.

*Chairman Adams read the following into the minutes: At the December 13, 2011 work session, Vice-Chairman Shore moved to grant administrative authorization for **SP-11-696**. The motion was seconded by Commissioner Wiley. Motion passed 5-0 (Commissioners Beatley and McKannan absent).*

2) **SP-11-704** PHR+A 1946-1950 Cidermill Lane Orchard Hill - Section 7A

Commissioner McKannan stated that he is abstaining from this item.

Mr. Moore presented the plan to subdivide the final lot on Cidermill Lane to create 3 townhouses. The development would be similar to the other townhouses throughout Orchard Hill, except that there would be three attached units instead of two. Similar to the rest of the development, waivers are requested to allow a back-out condition from the driveways onto the public street and to not have curbing around the driveways. A hammerhead turnaround area will be constructed at the end of the street on the adjoining property in the County.

Ron Mislowsky of PHR+A stated that there is one other triplex unit in Orchard Hill on Honeysuckle Lane.

Commissioner Talley asked why the hammerhead turnaround area was being used instead of a circular area.

Mr. Mislowsky stated that this was the design that took up the least area and still met the requirements of the Fire Department.

Commissioner Wiley moved to grant Administrative Authorization for SP-11-704.

The motion was seconded by Vice-Chairman Shore.

Motion passed 5-0-1 (Commissioner McKannan abstained).

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

Mr. Diem stated that there were two packets concerning the FBC that staff was working on with the consultant, Parsons Brinkerhoff, as part of the VDOT grant. He said that in addition to corrections that staff has pointed out to the consultant, he wanted to call the Commissioners' attention to a document titled "Winchester review draft 12-19-11, Ward Plaza FBC District, Section 13.14". He stated that this was intended to serve as a model if FBC zoning were to be applied to a redevelopment site such as Ward Plaza. He said that this was not intended to be codified into the Ordinance. He stated that this version reflects the land use category tables that had been vetted through the work session. He stated that with what they proposed in that particular model for Ward Plaza, there were no neighborhood or local streets that would have a land use table associated with it. As such, only the boulevard and main street uses are identified in this example. He said that staff is scheduled to have a conference call with the consultant later in the week and he would welcome any feedback from the Commissioners.

Mr. Diem said that one issue that came to mind, when looking at the Ward Plaza, was the potential for an establishment to want to position itself at Weems Lane and Valley Avenue and offer drive through service. He said that, in keeping with that area of the City, it is in all likelihood a possibility. He then referred to the other FBC document in the Commissioners' possession which included an example of a drive through facility which could be situated on a corner of two major street intersections and be positioned out of sight. He said that makes a good case to work with a future developer who may want to have a drive through in that location.

Chairman Adams asked if Mr. Diem had consulted with the City Attorney about how FBC would effect nonconforming uses.

Mr. Diem stated that he had not. He stated that one cannot ignore Article 17 of the Zoning Ordinance and vested rights, as addressed in the Code of Virginia. Acknowledging this, he said that it brings about potential concern. He thought in most cases someone interested in undertaking a FBC redevelopment project would likely eliminate the nonconforming uses or structures and something would be built to replace it.

Chairman Adams asked that Mr. Diem consult with the City Attorney on this matter.

ADJOURN

Chairman Adams addressed the Commission and stated that this was his last meeting after having the good fortune to serve for 10 years. He stated that he was a firm believer in public discussion and getting ideas out and that it was important that the process occur to help lead to a stronger City. His one hope was that this would continue. He particularly wanted to thank former Councilor Carolyn Griffin for appointing him and everyone for their assistance, kindness and courtesy.

Commissioner Talley addressed the Commission and also thanked Mrs. Griffin for his appointment and said that it was a privilege and honor to serve the City of Winchester. He stated it was a great place and that he had learned a great deal. He hoped that others would take interest and serve as well.

Vice-Chairman Shore, speaking on behalf of the Planning Commissioners and staff, presented gifts of thanks to Chairman Adams and Commissioner Talley in recognition of their time and dedication to the City of Winchester. He invited all in attendance to join in a reception following the meeting.

With no further business to discuss, the meeting was adjourned at 3:45 p.m.

Dave Shore, Vice Chairman