

**PLANNING COMMISSION
M I N U T E S**

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

PRESENT: Chairman Masters, Commissioners Weber, Talley and Shore.
ABSENT: Commissioners Adams, Sublett and Willingham.
FREDERICK CO LIAISON: Rick Ours
STAFF: Diem, Youmans Moore, and Walsh.
VISITORS: Brooke Phillips, Meredith Ward, Dan Fitch,
David Nahm, Ron Mislowsky, Yolande Lacan, Archie
McKay, Bob Bartley, & Phil Griffin.

Chairman Masters called the meeting to order at 3:00PM.

APPROVAL OF MINUTES

*Mr. Weber seconded by Mr. Talley, motioned to approve the minutes, as presented.
Motion carried unanimously 4-0.*

CORRESPONDENCE

Addition to the packet:

1. Item 2A - Two additional pages of a petition containing signatures regarding SP-08-25.

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

Mr. Ours stated that he didn't have much to report, other than County Planning Commission will be meeting to discuss a proposed amendment that would change the size of by-right lots from 5 acres to 10 acres in the Rural Areas Zoning District.

PUBLIC HEARINGS

SP-08-25 Request of Patton, Harris, Rust and Associates for site plan approval for retail/pharmacy use 326 Amherst Street (*Section 172, Double Circle 1, Block A, Lot 11; Section 172, Double Circle 1, Block F, Lot 14; and Section 172, Double Circle 1, Block F, Lot 15C*) zoned Central Business, B-1 District with Historic Winchester, HW overlay.

Mr. Moore presented the request for site plan approval for 13,118 sf retail/pharmacy use with a drive-thru on the current site of Dellinger Motor Company, as well as some parking on vacant

land to the north to serve both as offsite parking for the proposed use and expanded onsite parking for the existing Selma Medical use.

The site would be accessed across the Selma Medical property using the existing signalized intersection at Amherst and W. Boscawen Streets. No direct connection from the subject site to Amherst St is proposed. A parking area would be situated in between the proposed building and Amherst St, with additional parking and loading to the rear of the building, including some parking being provided offsite on the adjacent Selma property to the north. Traffic utilizing a proposed drive-thru on the east side of the building would circulate from the front parking area to the rear. An existing easement allowing the residential owners along Morgan St access to the rear of their properties across the NE corner of the Selma property would be maintained and an improved connection would be provided with an apron connecting to the gravel access drive.

Screening of the subject site to the adjacent residential properties to the east is provided through a combination of an 8' high opaque fence and a single row of Leyland Cypress plantings on the outside (residential side) of the fence. The fence is proposed at 8' rather than the 6' minimum to provide more effective screening as there will be an elevation drop-off to the residential side. The rear parking areas already have existing screening trees in place. The increased side yard (15' min.) adjacent to residential zones is provided, resulting in a much-improved condition than exists today, which includes pavement which encroaches from the subject site onto the residential property to the east.

The site is known to contain a number of existing, large caliper trees, including three near the rear of the subject property. The initial iteration of the site plan did not show the location of these existing large trees as required, nor did it identify efforts to preserve any of these trees. Staff met with the applicant to discuss this missing information and the possibility of revising the parking/traffic circulation layout to the rear of the proposed building in order to attempt to save some of these trees. In addition to meeting Ordinance requirements for addressing tree preservation, a revised layout could also address the concerns that have been presented by some neighboring property owners regarding circulation of drive-thru traffic.

A revised layout was submitted 7/8/08 that introduced a large island that would prevent traffic from the subject site from circulating completely to the rear parking area. The applicant also provided the necessary information pertaining to location of existing large trees. While preferable to the initial layout, this layout would still not allow for the preservation of any of the three large trees at the rear of the subject site. The applicant has stated that he does not think they are able to save the trees due to the elevations at the loading area. A section view submitted by the applicant clarifies that approximately 4 feet of fill to level the site will be required at the base of the trees. While preserving the trees would possibly require retaining walls around the trees and some drainage feature for the low area, staff is not convinced that this is unable to be accomplished based upon the existing storm drainage features that are in the vicinity.

Ron Mislowsky, of PHR&A representing the applicant, explained that they would need to raise the grade for two (2) reasons; One (1) being that it would blend in better with the surrounding properties and two (2) being that Walgreens is very strict about the slopes on their sites. They have their own minimum requirements including that once the sidewalks and parking areas are complete that as-builts be provided to ensure that all ADA requirements are met.

In addition to that, the site would need to be built up to allow it to drain. Walgreens also requires that within 30 ft of the back of the building a less than 2% slope must be maintained. Beyond that, the ground can be sloped more but not enough to get down to the base of the tree. In order

for it to drain into the storm system that was installed with the Selma property, the site must be high enough to tie into the culvert pipes that tie into the storm sewer. There is a 42 in pipe that runs to the Dellinger site, however once the pipe fills with water it backs up through the drain and fills the site.

Mr. Mislowsky explained that the parking requirements are met at this time, which is 66 parking spaces. With that amount of spaces there isn't much room left on the site. An application has been filed with the Board of Zoning Appeals requesting a 10% reduction in parking. Without this approval, the trees cannot be saved.

Mr. Mislowsky suggested what he considered a reasonable compromise; that for each large tree removed, they would plant (1) 4" tree and (3) 2" trees. These would be in addition to the trees otherwise required. He thanked the Commission for their time and stated that he was available for questions.

Chairman Masters opened public hearing.

Archie McKay, 115 Morgan St felt that more could be done to save the trees. He stated that the site was home of the Byrd family, including Senator Harry F. Byrd, and some of that history should be saved. He suggested exiting the traffic at the rear of the building instead of 130 ft past it and possibly having the required green space be where the trees are now. He felt it was unrealistic to think that Walgreens patrons would drive so far past the building to park when the Selma spaces are closer.

Phil Griffin, part owner of the property neighboring the Dellinger site to the east, stated that he met with PHR&A and is satisfied with the proposal and the drainage. He gave his approval of the proposal.

Bob Bartley, resident at the end of Morgan St. stated that he is speaking for three old friends – the three large trees – who can't speak for themselves. He considers this a beautiful area. He is not against the proposed use, however he does agree with Mr. McKay that if there is some way to save the trees, it should be done. If not all three, saving one or two would be good if it is possible.

Chairman Masters closed the public hearing.

Chairman Masters explained that the City Ordinance requires a business to provide a certain number of parking spaces based on the square footage of the building. She expressed relief that Mr. Griffin is in favor of the proposal and with the fact that the drainage had been addressed.

Mr. Shore stated that he and Mr. Weber met with Mr. Mislowsky at the site yesterday. He stated that at that time they were told that they were going to try and save two (2) of the trees but now it seems that it's only one (1).

Mr. Mislowsky explained that after they left he noticed the distance between the tree and the curb. He felt that they wouldn't be able to fit a retaining wall and still meet the setback requirements. They would have to be 2 ½ feet away from the curb and there isn't enough room.

Mr. Shore asked if it would be possible if they were granted relief of the 3ft separation.

Mr. Mislowsky stated that it was difficult to say. Looking at the plan, he felt the tree furthest to the right (east) would be difficult to save. He stated that the one in the driveway has to be removed; it's the one on the left (west) they are proposing to save.

Mr. Weber asked about truck traffic into the Selma site.

Mr. Mislowsky explained that it will only be box trucks because there is not room for a larger truck to turn around.

Mr. Weber stated that he would hate to see the trees go, but felt that the efforts that have been made are the best that can be done to fit the needs of the proposed store. He asked if they still have their required parking spaces if one tree was saved.

Mr. Mislowsky explained that in saving one tree he would lose two (2) parking spaces. He explained that to try to save the second tree, he would have to put in a retaining wall which would cause him to lose 3 more spaces. The BZA would have to approve the 10% reduction and the 3ft separation waiver would be needed in order to entertain the idea.

Mr. Youmans stated that the Planning staff supports the 3ft separation waiver.

Mr. Mislowsky stated that they could try with the waivers granted, but it is still difficult to say whether or not the eastern tree will be able to be saved. He asked the Commission to consider structuring the approval so that Mr. Youmans could make a determination in the field once the retaining wall was being staked out as to whether or not the tree will be able to be saved.

Chairman Masters asked what was necessary for the 3ft separation waiver.

Mr. Youmans stated that Mr. Diem would simply need to consult with the Commission, which this discussion could serve as, and administratively waive the requirement.

Mr. Diem stated that he has no objection to the 3 ft separation.

Mr. Shore asked for clarification on whether or not the 10% reduction would be enough to save the second tree.

Mr. Diem explained that he isn't the site designer but the reduction would equate to seven (7) spaces, which he felt should be enough to save the second tree.

Mr. Shore, seconded by Mr. Weber, motioned to approve SP-08-25 subject to the following:

- 1. Approval of the related rezoning request (RZ-08-06);*
- 2. Approval of a minor subdivision for boundary line adjustment and lot consolidation as depicted on the site plan;*
- 3. Documentation of agreement in perpetuity for use of offsite parking spaces and necessary easements;*
- 4. Approval of administrative modification or variance for required number of off-street parking spaces, if necessary; and*
- 5. It is the clear intent that an attempt will be made to save two (2) of the three (3) large maple trees. In the event that difficulty in saving the easternmost tree is encountered during the construction phase, the Planning Director will make the determination on an alternate plan.*

Motion passed unanimously 4-0.

CU-08-11 Request of The George Washington Hotel for a conditional use permit for nightclub use at 103 East Piccadilly Street (*Section 173, Double Circle 1, Block P, Lot 6*) zoned Central Business, B-1 District with Historic Winchester, HW overlay.

Mr. Youmans presented the request for approval for live amplified music extending into the evenings beyond 10pm. The request would involve venues in the Half Note Lounge on the main level as well as the Dancing Goat Restaurant on the lower level of the hotel. Additionally, live amplified music is anticipated at weddings and similar events to be held in the ballroom and other catered spaces on the main level. The request specifically calls for all entertainment to end by midnight so as not to disrupt guests sleeping at the hotel, but does not limit the number of evenings per week or month.

Chairman Masters opened the public hearing.

Yolande Lacan, Director of Operations, stated that she was there for questions.

Chairman Masters closed the public hearing.

Mr. Talley was in favor of the request and supportive of granting a later ending time than they requested in case their plans should change.

Chairman Masters pointed out that no aspect of nightclub use will occur outside and this would include the outside dining area.

Mr. Youmans clarified that they could have entertainment on the patio up to 10pm, just not after.

Mr. Weber seconded by Mr. Shore, motioned to forward CU-08-11 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 five 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. Night Club use to end no later than 1:00AM on any night;*
- 5. The CUP expires automatically if the nightclub use changes to another use, the nightclub use ceases for more than one year, or if the property changes ownership;*
- 6. All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use to occur outside the building; and,*
- 7. Strict obedience with all local and state laws especially those pertaining to ABC licensing and payment of meals tax.*

Motion passed unanimously 4-0.

TA-08-06 AN ORDINANCE AMENDING ARTICLE 14.2 AND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS IN THE CORRIDOR ENHANCEMENT (CE) AND MEDICAL CENTER (MC) DISTRICTS.

Chairman Masters recused herself.

Mr. Diem presented a request for Zoning Ordinance Text Amendments, made by Valley Health System and Winchester Medical Center, pertaining to Sections 14.2-6.6b, 14.2-6-6c, 14.2-6.6d, 18-8-9.2a, 18-8-9.2c, and 18-8-12.2a, of the Winchester Zoning Ordinance, so as to accommodate the Winchester Medical Center's proposed Signage Improvement Plan.

On March 25, 2008 several design proposals were received by the Winchester Medical Center. It was determined that the proposal did not meet the current Ordinance requirements pertaining to internal illumination, square footage of sign area, height of sign, numbers of signs permitted, and numbers of colors within a sign message area.

Two options were provided as a result. Either the applicant could submit a variance request to the Board of Zoning Appeals, or prepare and submit Text Amendment proposals. It was presumed that the Board of Zoning Appeals request would not be well received by the Board, as there are limited demonstrable hardships, if any, which would justify the approval of the necessary variances to accommodate their signage requests.

Section 14.2-6 stipulates the design criteria for properties located in the Amherst Street, Cedar Creek Grade, and Pleasant Valley Road/Cork Street Corridors. A portion of the property owned/occupied by Valley Health System and the Winchester Medical Center is located within the Amherst Street Corridor Enhancement (CE) District; and, therefore, subject to the provisions of Section 14.2-6. Coincidentally, two major entrances into the medical center campus are within the CE District, which may further impact the ability to provide adequate signage identifying each of the uses and occupancies within the limits of the property.

Mr. Weber opened the public meeting.

Dan Fitch, attorney representing the applicant, explained that Valley Health recently changed their colors and logo. There were a number of people in the medical community that had concerns with emergency signs being easily seen and recognized by patients, especially ones from out of town. Valley Health hired consultants with a broad base of knowledge regarding signage for medical centers. They suggested signage in a three (3) colors scheme so they wanted to make sure the background didn't count as a color. In regard to internal illumination, it's currently prohibited however it's needed for the ER signs at night. The remaining amendments are for the size and height and these recommendations came from the consultants.

Mr. Weber closed the public hearing.

Mr. Shore felt that it all sounded reasonable.

Mr. Weber asked if the hospital is in any violation in respect to the illumination of signs.

Mr. Fitch explained that the current signs have been grandfathered in but the new signs would require a modification to the Ordinance.

Mr. Diem had a concern that 14.2-6 does not just apply to Amherst Street Corridor. He asked that the Commission add language to 14.2-6.6B indicating that the background doesn't count as one of the three colors and follow the same language in 14.2-6.6C. This would prevent future issues in other enhancement districts.

Mr. Fitch stated that he had no objections to that.

Mr. Talley moved, seconded by Mr. Shore, to forward TA-08-06 to City Council recommending approval of the amendments with exceptions as proposed, because it should improve traffic flow and movement around the expanding medical center campus, while preserving the intended spirit and aesthetic quality of the Corridor Enhancement District.

Motion passed unanimously 3-0-1 (Masters abstained)

OLD BUSINESS

RZ-08-08 AN ORDINANCE TO CONDITIONALLY REZONE AN 8.7 ACRE PORTION OF LAND FROM LOW DENSITY RESIDENTIAL, LR DISTRICT TO MEDIUM DENSITY RESIDENTIAL, MR DISTRICT AT 470 MERRIMANS LANE. *Public hearing was closed and decision was tabled at the June 17, 2008.*

Mr. Youmans explained that this item was tabled last month to give the applicant time to reword Proffer #1.2, however no changes were made. Instead there was a revision to 1.4 calling for the owner to install, at a minimum, a two-board wooden fence to distinguish the area for future construction of Meadow Branch Avenue from the properties that dwellings would be constructed upon.

Mr. Weber stated that he is now comfortable with the wording. He explained that he did not realize at the time that the adjoining right of way was already in place. He was thinking it was owned by separate developers. He felt that there is no reason not to go forward. The important thing is that the right of way is given to the City at their request.

Mr. Shore moved, seconded by Mr. Weber, to forward rezoning case RZ-08-08 to City Council recommending approval as proffered in the revised Proffer Statement dated June 24, 2008 and depicted on the Generalized Development Plan dated May 1, 2008 because the request adequately addresses potential impacts arising from the rezoning and because it is consistent with the Comprehensive Plan for this area.

Motion passed unanimously 4-0.

NEW BUSINESS

Recommendation to Council: SV-08-02 AN ORDINANCE TO VACATE AND CONVEY TO WINCHESTER MEDICAL CENTER, INC APPROXIMATELY 640 SQUARE FEET OF RIGHT OF WAY IN THE VICINITY OF THE EAST ENTRANCE AT 1840 AMHERST STREET

Chairman Masters recused herself.

Mr. Youmans reviewed the request to vacate a portion of right of way where the Medical Center's sign is currently located. Vacating the right of way would allow the Medical Center to make changes to what is now a nonconforming sign because it encroached into the right of way.

The City has no plans to widen Amherst St improvements, however the vacation would be conditioned that the right of way would revert back to the City if it was ever needed.

Mr. Talley moved, seconded by Mr. Shore, to forward SV-08-02 to City Council recommending approval as contained in the draft ordinance dated June 8, 2008.

Motion passed unanimously 3-0-1 (Masters abstained)

Administrative Authorizations:

- 1) **SP-08-24** Greenway Engineering 2601 Valley Ave - Parsons Chrysler-Kia

Mr. Talley, seconded by Mr. Shore, moved to administratively approve SP-08-24 with the condition that the Valley Ave access becomes the entrance.

Motion passed unanimously 4-0.

- 2) **SP-08-27** Bohler Engineering 535 Patsy Cline Blvd - Checkers

Mr. Talley, seconded by Mr. Shore, moved to administratively approve SP-08-27.

Motion carried 4-0.

OTHER DISCUSSION

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:55 pm.

Susan Masters, Chairman