

**PLANNING COMMISSION
MINUTES**

The Winchester Planning Commission held its regular meeting on Tuesday, January 20, 2009, at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Planning Commissioners: Commissioners Masters, Weber, Adams, Sublett and Wiley.

Ex Officio & Staff: Youmans, Moore, Diem, & Walsh

Frederick County Liaison: Rick Ours

ABSENT: Commissioner Talley

VISITORS: Vickie Puckett, Scott Andres, and Judy Sue Huyett-Kempf

ELECTION OF OFFICERS:

Mr. Weber nominated Mrs. Susan Masters for the position of Chairman and Mr. Nate Adams as the position of Vice-Chairman of the Planning Commission. The nomination was seconded by Mr. Wiley. Motion passed unanimously.

CALL TO ORDER: Chairman Masters called the meeting to order at 3:03pm.

APPROVAL OF MINUTES:

Mr. Weber moved that minutes of the December 16, 2008 meeting be approved as presented. The motion was seconded by Mr. Adams.

Motion passed 4-0-1 (Mr. Wiley abstained).

CORRESPONDENCE

A revised agenda was presented that added:

Item 3A – Motion for Capital Improvement Program recommendation to Council

Item 3B – Summary of the Council Retreat as it relates to the Planning Commission

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

Mr. Ours gave the Commission an overview of items discussed at the last Frederick County Planning Commission meeting including:

- Recommendation for approval of a revised plan submitted by the developer for an enlarged swimming pool at the Sovereign Village development.
- Recommendation for approval of a rezoning to allow a CVS to be built at Senseny and Greenwood Roads.
- Recommendation for approval for a rezoning and master development plan for the Governor's Hill Development located in the area of the former Carpers Valley Golf Course.

PUBLIC HEARINGS

CU-08-19 Request of Fort Loudoun Properties, Inc. for a conditional use permit for conversion of ground floor nonresidential use to residential use at 28-30 South Braddock Street (*Section 193, Double Circle 1, Block C, Lot 8*) zoned Central Business, B-1 District with Historic Winchester, HW District overlay.

Mr. Youmans presented the request to convert an approximately 802 sq.ft. ground floor commercial tenant space, primarily at the rear of an existing mixed use building fronting along the north side of Wolfe Street from a commercial tenant space to a one-bedroom apartment. This is a different request than the one (CU-08-12) proposed for 26 Wolfe St which was denied by City Council in October 2008.

The Zoning Ordinance prohibits the conversion of ground level non-residential use to residential use in the B-1 district, except with a conditional use permit. The B-1 district is intended for the conduct of business to which the public requires direct and frequent access. Consideration should be given to the appropriateness of this type of use for this specific location. A conditional use permit for such a conversion can be granted subject to the unit not facing a major commercial street.

The submitted floor plans depict an 802 square foot tenant space that would be legally converted from commercial use to a one-bedroom apartment. As noted in the applicant's December 3, 2008 letter, this space had been improperly used as a dwelling by former owner Irvin O'Connell who is now deceased. At 802 square feet, it far exceeds the 575 absolute minimum floor area requirement. It is unknown at this point what the resulting average floor area calculation would be. The applicant had, with the prior application (CU-08-12), provided a rough sketch of the floor plans for the ground and second floors that demonstrates the layout of the units to determine if the minimum average floor area for all units is met has not otherwise been provided. An updated calculation should be provided.

The addition of another dwelling unit invokes a slight increase in green area. Only a small amount of green area at the back of the site exists to staff's knowledge. Staff recommends that the applicant provide a nominal landscaping improvement in the form of some foundation planting, flower boxes, or contribution to the OTDB for landscaping within the public right of way along S. Braddock St as proposed with the 2008 CUP proposal.

Staff felt that the revised proposal is more favorable than the previously submitted request because the dwelling is primarily oriented away from the Wolfe St frontage and has access only to and from the rear of the building. Only one room of the dwelling would have a window facing out to the public street.

Chairman Masters opened the public hearing.

Vickie Puckett, property manager with current office at 28 Wolfe St, stated that a deposit has been placed for a tree to be planted along Braddock Street and she plans to place planters along Wolfe Street as mentioned by Mr. Youmans. Overall they are continually trying to improve the property. They are currently at full capacity in the residential units. Most new tenants are coming from out of town and she sees a need for additional residential space downtown. She was available for any questions.

No one else spoke regarding the request.

Chairman Masters closed the public hearing.

Chairman Masters stated that she was concerned that when an existing doorway is closed off, the current leasing office will be cut off from restroom facilities and will be just one unusable room. She is also concerned with an existing safe that appears to remain in the residential unit.

Ms. Puckett responded that there is a plan to expand the current leasing office to the east to give access to a restroom. The intent is to build out around and wall off the safe to create shelves. It is not serviceable, so there will be no need for commercial users to access it.

Mr. Adams stated a concern that the living area was not created legally. Council made it clear in the denial of the previous request that the desire was for first floor commercial use. Although he understands that this unit does have rear access, he is still concerned that this request goes against the grain of what Council has stated.

Chairman Masters stated that there is a new Council now and that the Commission does not know how they will view this request.

Mr. Wiley asked about the uses of the spaces to the east on the ground floor. Staff provided the complete floor plans from the previous request to Mr. Wiley to review. Upon reviewing, Mr. Wiley commented that it appears that the desire may be to convert the entire ground level to residential space

Mr. Youmans stated that the B-1 District intent is for a mix of uses. Council only adopted the provision requiring a conditional use permit for ground floor conversion to residential around 2000 in response to the conversion of what today is the cigar shop at Piccadilly and Cameron when the upper story residential expanded to the ground floor and the storefront windows were covered in black plastic.

Mr. Wiley commented that this space that was not approved is sitting vacant and there is a large portion of the ground floor already residential. He asked if this request could set a precedent for the owner to come back and ask for more residential space.

Mr. Youmans commented that the subject space has not been used illegally. Its previous residential use predated the conditional use requirement. The conditional use requirement allows each request to be looked at on its own.

Mr. Sublett commented that the applicant is between a rock and a hard place here. The building is made out of stone and they cannot do anything to it to really make it more viable as commercial space. They also would need to deal with the restraints of the BAR. To get a business in here is going to be tough on that side of the street with no visibility. With this space being accessed from the rear and the building being an oddity, he felt for the applicant and understands the request.

Chairman Masters said these were good points. While retail space along this street would be difficult, she could see an accountant or lawyer's office fitting nicely here.

Mr. Weber stated that the applicant said that the leasing office is planned to be moved.

Ms. Puckett confirmed that it would be best for their office to move to the east to 26 Wolfe St and have a larger space. They could then alter the current office to give restroom access before trying to lease it as commercial space.

Chairman Masters asked what would happen if they did not receive approval.

Ms. Puckett stated that if they were not given the change of use, the leasing office will stay in its current location and they will continue to try to lease 26 Wolfe St as commercial space.

Mr. Weber asked why the applicant did not include the plans for moving the leasing office and renovating the current leasing office in the request.

Ms. Puckett apologized, stating it was an oversight.

Chairman Masters stated that she would prefer to see the overall plan as part of the request so the Commission can get a better idea of the big picture.

Mr. Weber moved to table CU-08-19 to give the applicant an opportunity to provide more details for the overall plan for the property. The motion was seconded by Mr. Sublett.

Motion passed 5-0.

TA-08-12 AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 5, 7, 8, 9, 13 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO INCENTIVES FOR LEED® CERTIFICATION

Mr. Diem presented the amendment, stating that it is an effort to create additional incentives for builders and developers to pursue LEED certifications for multifamily dwelling projects.

Mr. Diem commented that the amendment had gone through several iterations before the Commission initiated it in December. He presented one revision to the previous draft. The revision omits the proposed parking reduction bonus. He commented that the City is going to look at parking revisions in a more comprehensive outlook rather than piecing together revisions.

Mr. Diem explained that earlier this year, the City of Winchester accepted the Virginia Municipal League's "Go Green Challenge," and efforts have already begun to reduce the City's carbon footprint and overall environmental impact for improved sustainability.

A particular element that is missing from the City's Going Green campaign is a lack of programs and incentives for green building practices. The United States Green Building Council (USGBC) has developed standards for green buildings, which are outlined in the Leadership in Energy and Environmental Design (LEED®) for Homes certification program. Green buildings are not limited to residential structures; however, the USGBC cites that the 'largest and most active areas of green building has been in the residential market.

Staff has reviewed the standards for certification through the LEED for Homes program and has found that they represent effective solutions for improving sustainability within the City. The initial cost for certification that will be realized by the developers or builders will be compensated, in part, with the increased densities of dwelling units allowed in the Total Project Area.

Chairman Masters opened the public hearing.

No one spoke regarding the amendment.

Chairman Masters closed the public hearing.

Chairman Masters asked if the density bonus might potentially have a conflict with the comprehensive plan update underway.

Mr. Youmans stated that sustainability is a major focus of the comp plan and that this amendment supports that aspect.

Mr. Wiley commented that LEED is here to stay and that this is a smart move for the City of Winchester.

The Commission agreed to refer to the revised draft of the amendment that eliminates the parking reduction as "Draft 4 - 1/20/09" to eliminate confusion with Draft 3 in the packet.

Mr. Weber moved that that the Planning Commission forward TA-08-12 as identified in "Draft 4 – 1/20/09" to City Council recommending approval as it represents good planning practice and allows for the development of green buildings within the City of Winchester, as part of the concerted effort of "Going Green." The motion was seconded by Mr. Wiley.

Motion passed 5-0.

TA-08-15 AN ORDINANCE AMENDING AND RE-ENACTING SECTION 5.1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MUSEUMS AND ART GALLERIES IN THE LIMITED HIGH DENSITY RESIDENTIAL, HR-1 DISTRICT

Mr. Youmans presented the city-sponsored proposal to provide a Conditional Use Permit (CUP) provision in the HR-1 District for Museums and Art Galleries similar in nature to the provisions already provided for in the HR and other residential zoning districts.

Staff was approached by representatives of Celebrating Patsy Cline about the possibility of using the house on S. Kent Street as an interim museum prior to the establishment of a permanent museum. This amendment, if approved, would not specifically authorize use of that house as a museum, but would at least permit consideration of a request to do so as a CUP.

The intent of the HR-1 district, as adopted in 1996, was to offer a more restrictive version of the High Density, HR District. Provisions for Museums and art galleries exist in the LR District. Provisions for Museums only exist in the MR Residential District. These provisions are even more restrictive than the HR-1 District.

The major difference between the provisions for the LR and MR Districts is the greater conditions associated with such facilities in the LR District, even though they permit consideration of art galleries in addition to museums. The LR provisions were crafted with Glen Burnie Museum in mind. Provisions for the MR District were crafted with the Stonewall Jackson's HQ and Abrams Delight Museums in mind. CUP provisions for museums and art galleries in the HR district do not have any stipulations codified. Any conditions associated with the granting of a CUP for either of these uses in the HR District would be attached by City Council.

The language contained in Draft 2 dated 12/12/08 stipulates that museums and art galleries in the HR-1 District be situated on properties located within either a local or national historic district. The Patsy Cline House on S. Kent St is outside of the local historic district, but within the National historic district. Approval of this text amendment should not, however, be viewed as an endorsement of any specific museum CUP request.

Chairman Masters opened the public hearing.

Dr. Scott Andres, Board of Directors of the Patsy Cline Museum stated that he strongly supports the amendment.

No one else spoke regarding the amendment.

Chairman Masters closed the public hearing.

Mr. Adams moved that that the Commission forward TA-08-15 as identified in "Draft 2 – 12/12/08" to City Council recommending approval because it expands opportunities for heritage tourism economic development and represents good planning by avoiding allowing for consideration of requests on a Conditional Use basis. This was seconded by Mr. Weber.

Motion passed 5-0.

NEW BUSINESS

FY2010-2014 Capital Improvement Program (CIP)

Mr. Youmans explained that Council will be looking at projects and how they relate in regards to the Capital Improvement Plan (CIP). A full list of projects and an illustrative map were presented at the Commission's January 13, 2009 work session. A staff CIP review team had compiled a ranking of their top projects for prioritization.

Chairman Masters suggested that the Planning Commission's recommendation be done as it was two years ago, by ranking the priority of groups of projects instead of individual projects.

After some discussion about how to group the projects,

Mr. Adams moved to forward the CIP to Council with a recommendation for approval because it is consistent with the Comprehensive Plan. As a general guide, the Commission recommends prioritizing the projects as follows: 1) Transportation and Traffic Control; 2) Infrastructure; 3) The remaining projects. The motion was seconded by Mr. Weber.

Motion passed 5-0.

City Council Retreat Overview

Mr. Youmans gave an overview on what was discussed at the recent City Council Retreat, in particular as to how it related to the Planning Commission. He focused on items such as the change in the Mission Statement and the importance of the Quality of Life Standards. Council announced that they will measure all decisions according to the new Mission Statement and the Quality of Life Standards. One of the steps in meeting this mission is to have the Council meet with all of its appointed Boards and Commissions in the near future to ensure that everyone is committed to the same vision. City Staff will develop specific objectives to meet the 3-5 and 10 year targets set by Council to increase median household income, rate of home values, and the number of jobs in Winchester. Council also intends to take a definitive stance on Unification by meeting jointly with the Frederick County Board of Supervisors to decide whether or not to continue the study.

Overall, Mr. Youmans was impressed with the new Council and felt that the city would benefit greatly from their service.

Chairman Masters stated that it would be a good idea to schedule time to meet with Council in conjunction with a Planning Commission Retreat.

Mr. Youmans agreed, stating that he would check with the City Manager to come to an agreement on an appropriate date and time.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:30pm.

Susan Masters, Chairman