

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
August 25, 2015
Council Chambers – Rouss City Hall**

DRAFT

PRESENT: Councilor Evan Clark, John Hill and Corey Sullivan; Vice-President Milt McInturff; City Councilor Kevin McKannan and William Wiley; Vice-Mayor Les Veach; President John Willingham (8)

ABSENT: Mayor Elizabeth Minor (1)

1.0 Call to Order: President Willingham called the meeting to order at 7:45 p.m.

2.0 Public Comments:

President Willingham asked if there was anyone wishing to address Council. Seeing none, he closed the public comments at 7:46 p.m.

3.0 Items for Discussion:

3.1 Presentation: Update regarding an appeal of the decision by the Board of Architectural Review (BAR-15-336) regarding the replacement of windows for the property located at 210 South Washington Street

Planning Director Tim Youmans presented the appeal concerning a portion of a Board of Architectural Review (BAR) decision. He stated staff has prepared three options for consideration that include upholding, modifying or reversing the decision of the BAR in whole or in part. The review is subject to a public hearing that must be held within 60 days of the date the appeal was made. The applicant has indicated that he will not be in town on the date of the hearing and may submit a request to delay the public hearing. Mr. Youmans stated the applicant has agreed to replace the vinyl windows with wood windows in the front of the house. He is appealing the denial of the request to replace the wood windows on the side of the house with vinyl. The decision of the BAR was to allow the applicant to replace the vinyl windows with wood windows on the front of the house in one year and on the side of the house in two years. The windows on the rear of the house would be left vinyl and one window on the side of the house since it was originally vinyl when the applicant purchased the house. The applicant has ordered the wood windows for the front of the house and will have them replaced well within the one year time. Mr. Youmans reviewed Chapter 5 of the Winchester Historic District Design Guidelines regarding the replacement of windows that states “materials or finishes that radically change the sash, depth of reveal, muntin configuration, the reflective quality of color of the glazing or the appearance of the frame are not to be used.” He also reviewed Section 14-2-1 of the Zoning Ordinance that defines

the Exterior Architectural Appearance to include "...type and character of all windows, doors, light fixtures, signs, and appurtenant elements, subject to public view from a public street, public way, or other public places." Mr. Youmans stated the Planning Department sent out postcards for the second year in a row reminding residents that exterior changes must be approved by the BAR.

Councilor Clark suggested putting an interior muntin bar on the side windows to make them look more historical. He proposed to modify the decision of the BAR to continue with the installation of the wood windows on the front and require the applicant to add real or faux muntin bars on the side windows and leave the vinyl.

Councilor Wiley asked why one vinyl window is allowed to stay. Josh Crump, City Planner, stated it was installed before the applicant purchased the house.

Councilor Wiley stated the applicant said he was not aware the house was in the historic district and asked if it was disclosed by the realtor when he purchased the house. Mr. Simpson, the applicant, stated there was not disclosure when he purchased the house. He did not know until he received the post card but by then it was too late.

Councilor Wiley stated he has been through this and it cost him dearly but he went through the proper channels. It appears the BAR is trying to work with the applicant with the time line and cost so he does not have issues with their decision. He would like to see the City work with the realtors for more disclosure at the time of purchase.

Councilor Hill asked the applicant if he would replace the side windows if given the time. Mr. Simpson stated the timeline is very generous. His problem is he doesn't feel anyone walking by or driving down the street at any time can tell if they are vinyl or wood. He can understand the front because it is open facing the street. He doesn't see that financially it is going to change anything.

Councilor Hill stated he agrees but there might be someone who could tell when walking down the street. Mr. Simpson stated financially, he has put all of his money into the home and it would be costly to remove the windows that he put in.

Vice Mayor Veach asked what Council did on a previous case at North and Braddock Streets. Mr. Youmans stated that was a split decision based on the elevation. That was a corner property so the side was more visible.

Councilor Sullivan asked what the cost is to replace the windows. Mr. Simpson stated it is roughly \$300 a window and the windows do have the muntin bars already. He replaced what was there but with vinyl.

President Willingham stated he is a preservationist and has used tax credits so he disagrees with everything that has been said. It is difficult for him to say the applicant should put wood windows in when vinyl works. There is no real value to it. The BAR guidelines are the same rules for those who use the Historical Tax Credits. If you are a regular homeowner in the historic district, you are held to a higher standard than other homeowners but probably do not qualify to get the tax credits. It is tough for him to tell someone to put in any wood windows. He is going to vote against anything that does not allow the homeowner to do that because he does not see the value in it especially if the homeowner can make it look like the exterior is wood. He does not see the value for the people who live in this neighborhood and cannot use the tax credits to have to comply with this set of standards.

Vice President McInturff stated he agrees with President Willingham.

Councilor Sullivan asked if President Willingham is supporting no change at all. President Willingham stated he would support vinyl windows that were covered with wood to make them look historical similar to the Omps request.

Mr. Youmans stated the difference in the Mr. Omps' request and this request is Mr. Omps had aluminum storm windows that were being removed to expose more of the natural elements so there was a very small amount of the vinyl visible.

Mr. Youmans stated this is an example of a property in the National Historic District where tax credits can be used and the local historic district. That is where the obligation comes in to go before the board. President Willingham stated he understands that and thinks the standards are fantastic and are meant for a trade off but the applicant is not getting the upside of that trade.

City Attorney Anthony Williams stated in the past, Council has given direction to staff to prepare a resolution that documents Council's decision to uphold, modify or reverse the decision of the BAR and tells the applicant exactly what to do.

Councilor Sullivan moved to forward the appeal to the Work Session on September 8, 2015, for more discussion and the public hearing to September 22, 2015. *The motion was seconded by Councilor Clark then unanimously approved 8/0.*

3.2 CUP-15-383: Conditional Use Permit – Request of ANS Property LLC. for a Conditional Use Permit for extended stay lodging at 2649 Valley Avenue (Map Number 290-06- -1) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning.

Mr. Youmans presented the request to convert the existing hotel at 2649 Valley Avenue to an extended stay lodging facility. He stated by definition, extended stay lodging is designed to be used by businessmen and not families. The

applicant is proposing to convert the 76 units of the hotel into extended stay lodging units. The existing swimming pool will be removed but there has been discussion about future developments to include a recreation center. The Commissioner of the Revenue has indicated a concern about the conversion in that it will have an impact on the lodging tax. With an extended stay unit, the lodging tax can only be collected for the first 30 days so there could be a drop in the amount received. The conversion to business lodging is not expected to have an impact on the schools although there could be families with school-aged children living there while finding a house in the area. It is anticipated that the conversion to extended stay lodging will result in fewer public safety calls. The applicant is proposing a security gate to be situated along the entrance on Valley Avenue with card access to the site to control any suspicious activity that occurred there in the past. Mr. Youmans reviewed the conditions set by the Planning Commission that included maid service for all units, a typical floor plan to be submitted to City staff, no occupancy longer than nine months in a 12 month period, a limit of three criminal calls a month, a six month review for compliance, and site plan approval.

Councilor McKannan asked how many police calls have been received per month. Mr. Youmans stated there were about 12 calls per month under the previous ownership. Aaron Grisdale, Director of Zoning & Building Inspections, stated the calls were between 80 and 250 a year.

Councilor McKannan asked for more information on the security gate. Mr. Youmans stated it would be card entry but it would not have a fence attached to it.

Councilor McKannan asked what the rent used to be and what it would be now. The applicant, Priscilla Price, stated there will be fencing around the entire property to increase security. The current rent is \$215 a week and they expect the rates to increase to \$300-\$400 a week.

Vice Mayor Veach asked how the extended stay will be enforced. Mr. Grisdale stated extended stay lodgers have not been an issue historically. The illegal occupancy has been with hotels.

Vice Mayor Veach asked if the maid service is feasible. Mr. Grisdale stated it is consistent with other projects in the city.

Vice Mayor Veach asked how many extended stay projects are in the city now. Mr. Youmans stated he would guess there are five locations around the city.

Vice Mayor Veach asked if the review is in six months, how staff will be able to check if anyone is staying longer than 9 months. Mr. Youmans stated staff would not be able to review that condition. Vice Mayor Veach asked if Mr. Youmans would like to change the review timeframe. Mr. Youmans stated that would be up to Council.

Councilor Wiley stated he is concerned about stacking issues with people going in and out of the gate on Valley Avenue. He asked when the landscaping will be done. Ms. Price stated it is anticipated for the spring.

Councilor Wiley expressed his concern with the impacts to the city and enforcing the conditional use permit.

Councilor Sullivan suggested having a periodic review with a re-approval. He stated he noticed there are two beds and asked what the maximum occupancy per unit would be. Mr. Youmans stated it would be held under the occupancy limits in the Building Code. It is not uncommon for construction companies to put two or more in a room when working on a project.

Councilor Sullivan asked what the potential for student occupancy or school-aged students living there would be. Mr. Youmans stated it is feasible that a student would be there until they found housing but it should be a small percentage.

President Willingham asked if staff could get those numbers. Mr. Youmans stated the schools are very reluctant to give that information. President Willingham stated he thought the schools have given the addresses in the past and asked that staff put that in a request. Mr. Youmans stated they usually will not give individual addresses but the number in a neighborhood or subdivision.

Councilor Sullivan expressed his concern with not knowing the impacts yet from a recent rezoning.

President Willingham stated to Councilor Sullivan's point, if someone is relocating, they will need to move their family here as well and will need temporary housing. Councilor Sullivan stated the fear is not the kids. The fear is temporary will become permanent.

President Willingham stated he appreciates everything the applicant has done to clean up the property. He thinks Councilor Sullivan has a very good point that the City will need to figure out how to monitor. Although security cameras have been mentioned, he is still concerned about the rear of the property where he thinks a lot of the previous issues occurred. He asked if the property could be enhanced with lighting that is not obtrusive to the neighbors. He also asked if the applicant has experience running an extended stay facility. Ms. Price stated they currently manage Brookfield Corporate Apartments next to the Rubbermaid facility.

President Willingham stated a suggestion was made to bring this back in a year. Vice Mayor Veach stated it was a one year review and a three year re-approval.

Councilor Wiley asked for more information on the comparable property in terms of rates and how that compares to other extended stay units in the area.

Vice Mayor Veach moved to forward CUP-15-383 to Council with amending Condition #5 to extend the six month review to a year and to return to Council in three years for re-approval. *The motion was seconded by Councilor Wiley then unanimously approved 8/0.*

- 3.3 CUP-15-388:** Conditional Use Permit – Request of Peter S. Grasso Jr. of Grasso & Sons Development LLC. for a Conditional Use Permit for a single-family detached dwelling at 2413 Valley Avenue (Map Number 270-03- -13) zoned Highway Commercial District (B-2) with Corridor Enhancement (CE) District Overlay zoning.

Mr. Youmans presented the request to restore the single-family use at a property that lost its rights for residential use at 2413 Valley Avenue. He stated the applicant has been unsuccessful in obtaining the adjacent property and cannot use it for commercial. As a condition of the residential use, staff is asking for the parking violation in the rear of the property to be rectified.

President Willingham stated although the request is for residential, it sounds like the applicant wants to use it for commercial at some point if he can assemble the lots.

Mr. Youmans stated the current request is for residential use but the tenant in the house will want to have a home occupation that is not subject to Council review. It would only be for the tenant's office use so there would be no employees coming and going.

President Willingham asked if it would be good to have a timeline since he is trying to assemble this for some other reason. Mr. Youmans stated Council could put a timeline for the re-approval.

President Willingham asked if the conditional use permit goes away if the property is sold. Mr. Youmans stated it goes with the property unless stated otherwise. President Willingham stated he would be interested in doing that in this case because he would not want it grandfathered in if the property is sold since the Comp Plan does not call for anything except for commercial use in this area.

Councilor Sullivan moved to forward CUP-15-388 to Council with the condition that if the property is sold the CUP expires. *The motion was seconded by Vice President McInturff then unanimously approved 8/0.*

- 3.4 SD-15-384:** Request of Pennoni Associates Inc. on behalf of Oakcrest Builders Inc. for subdivision approval for a 10-lot subdivision at 715 South Braddock Street (Map Number 212-1-C-8) zoned Central Business (B-1) District.

Mr. Youmans presented the proposal to create nine townhome lots at 715 South Braddock Street with six lots along Braddock Street, one on the corner

and two on Pall Mall Street. He stated all of the units will have off street parking behind the units which is double the required amount. The existing entrances to the property will be eliminated allowing for parallel parking on the street. Mr. Youmans reminded Council that subdivisions are approved by a motion and do not require a public hearing.

Councilor Sullivan asked if there will be rear access to the properties. Mr. Youmans stated there would be access to the parking in the rear.

Vice Mayor Veach asked what will be between the property and the adjacent home. Mr. Youmans stated the applicant is proposing evergreen screening between the properties.

Vice President McInturff moved to forward SD-15-384 to Council. *The motion was seconded by Councilor Wiley then approved 7/0/1 with President Willingham abstaining until a potential conflict of interest can be determined.*

3.5 O-2015-18: AN ORDINANCE TO VACATE A PORTION OF AN ALLEY RIGHT OF WAY BETWEEN 328 AND 400 HIGHLAND AVENUE AND CONVEY IT TO THE OWNER(S) OF 400 HIGHLAND AVENUE. SV-15-406

Mr. Youmans presented the request of Habitat for Humanity to convey the alleyway between 328 and 400 Highland Avenue to 400 Highland Avenue. Mr. Youmans stated there are no public safety concerns with this vacation but the City will need to retain an easement for the water and sewer lines in the alley.

Councilor Clark moved to forward O-2015-18 to Council. The motion was seconded by Councilor Wiley.

Vice Mayor Veach asked if the applicant has any plans to stop the foot traffic from going back and forth. Mr. Youmans stated the intent is to put a fence up.

Vice Mayor Veach asked where the \$0.50 per foot in the agreement came from or if it is market value. Mr. Youmans stated it is past practice but it is at Council's discretion. Typically, with the residential property, you do not calculate it by square foot as you would a commercial property. It is usually a lump sum amount.

The motion was unanimously approved 8/0.

3.6 O-2015-17: AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 17, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS; NONCONFORMING STRUCTURES; PERMIT REQUIREMENTS FOR FAMILY DAY HOMES; POWERS, PROCEDURES AND EX PARTE COMMUNICATIONS OF THE BOARD OF ZONING APPEALS; AND VIOLATIONS AND PENALTY. TA-15-376

Aaron Grisdale, Director of Zoning and Building Inspections, presented the amendments to the Winchester Zoning Ordinance to comply with the recent changes made by the General Assembly. The changes affect the powers and duties of the Board of Zoning Appeals and the licensing requirements for Family Day Homes.

Vice President McInturff moved to forward O-2015-17 to Council. *The motion was seconded by Councilor Wiley then unanimously approved 8/0.*

3.7 O-2015-20: AN ORDINANCE TO AMEND SECTION 2-1 AND 2-2 OF THE WINCHESTER CITY CODE PERTAINING TO THE CITY SEAL AND DUTIES OF THE DEPUTY CLERK OF COUNCIL

City Manager Eden Freeman pointed out a scrivener's error on the top of the Item Cover Sheet indicating the second reading would be at the September 8, 2015, Council Meeting. She explained this item was brought back to Work Session to explain a change in the proposed seal. The first reading will occur at the September 8, 2015, meeting and the public hearing and the second reading will occur at the September 22, 2015, meeting.

Ms. Freeman stated based on Council's direction at the last work session, staff brought forward this draft ordinance to clarify the role of the Deputy Clerk of Council. The City's current practice is the Deputy Clerk of Council is who attaches the City Seal to the various correspondences rather than the City Manager who is the actual Clerk of Council. Staff has also received some input from Mr. Donovan, a flag protocol expert, who determined the American Flag was not in the proper place on the draft seal that was presented to Council at the last work session. Mr. Donovan was a U.S. Marine for many years and has a great deal of expertise in the protocols and the respectful traditions of the United States Flag. As a result of his input and after validating it, staff made a slight amendment to place the United States Flag in the upper left corner, the Flag of Great Britain in the upper right corner, the centerfield of the Virginia Flag in the lower left corner, and the historical Flag of the Confederacy in the lower right corner.

Vice Mayor Veach stated he would like more data on the replacement costs before sending this forward. Ms. Freeman stating the historic plaque does not contain the full City Seal. It contains elements of the seal. As with the patches and other items that were outlined in the agenda item, staff does not anticipate changing those out as they contain elements of the seal but are not the seal. When talking about changing the seal, it would mean purchasing a new die to press the foil seals used on the documents. It would also include staff time to update the templates to include the revised City Seal. She clarified that the patches worn by the police and fire personnel are not the City Seal. They contain elements of the seal. However, the replacement of those can be staggered in if that is what Council would like to do. Further, there are a number of stickers on older City vehicles that would need to be removed. Those could be replaced or not. The design of the new Winchester Police

vehicle does not include the City Seal for an example. The Fire Department apparatus are all owned by the volunteer fire companies and some do contain the City Seal. Those are the representative patches adopted by the volunteer fire companies so any changes would be up to the company. The \$15,000 does not include replacing the stained glass seal. Staff can try to work with a stained glass artist to see if that is something that can be done but it was not included in the cost estimate provided at the last meeting.

Vice Mayor Veach asked to get pictures of the things Ms. Freeman mentioned to be replaced. He stated he is not in favor of replacing the current seal as he has stated before. He is concerned if this goes forward, it will set a terrible precedence. Council has heard it is just the flag that is offensive but he thinks it will set up future requests. There is already a request to replace the name of Jeb Stuart High School in Fairfax County. He does not know where it will end if Council starts down this road.

Councilor McKannan asked if the flags are the elements of the City Seal that are on the patches. Ms. Freeman stated that is correct. It is the centerfield of the seal.

Councilor Wiley moved to forward O-2015-20 to Council. The motion was seconded by Councilor Hill.

Mr. Williams suggested amending the language in Section 2-2 to read "Clerk or designee" as many times there have been people who step in for the Deputy Clerk of Council but are not actually the deputy.

Councilor Wiley agreed to include that amendment into his motion.

President Willingham asked if there was any way to specify that Council does not want to change anything else. Mr. Williams stated the intent could be stated by resolution but it would not be binding to future Councils. It could also be stated in the ordinance if Council chooses to do so.

Councilor Clark moved to amend the motion to change the ordinance to indicate that Council intended to change the flags to get the correct representation of the flags and this is the total extent of the changes proposed by this Council. *The motion was seconded by Councilor Hill then unanimously approved 8/0.*

The amended motion was approved 7/1 with Vice Mayor Veach voting in the negative.

President Willingham stated he would entertain a motion to add a motion to appoint a member to the Northwestern Community Services Board. *The motion was made by Councilor Wiley, seconded by Councilor Clark, then unanimously approved 8/0.*

Motion to appoint a member to the Northwestern Community Services Board.

Councilor Wiley moved to forward the appointment to Council. *The motion was seconded by Vice Mayor Veach then unanimously approved 8/0.*

3.9 MOTION TO APPOINT _____ AS A MEMBER OF THE PARKS AND RECREATION BOARD.

Councilor Wiley moved to forward the appointment to Council. *The motion was seconded by Councilor Clark then unanimously approved 8/0.*

3.10 MOTION TO APPOINT _____ AS A MEMBER OF THE SHENANDOAH AREA AGENCY ON AGING.

Councilor Wiley moved to forward the appointment to Council. *The motion was seconded by Vice Mayor Veach then unanimously approved 8/0.*

3.11 MOTION TO APPOINT _____ AS A MEMBER OF THE LOCAL BUILDING CODE BOARD OF APPEALS.

Vice President McInturff moved to forward the appointment to Council. *The motion was seconded by Councilor Sullivan then unanimously approved 8/0.*

4.0 Monthly Reports

4.1 Fire & Rescue Department

5.0 Adjournment

Councilor Wiley moved to adjourn the meeting at 9:05 p.m. *The motion was seconded by Vice Mayor Veach then unanimously approved 8/0.*