

Minutes of the Planning & Development Committee
February 24, 2009
5:30 PM

PRESENT: Councilor Michael Butler, Evan Clark, Milt McInturff, Les Veach and John Willingham; Vice-President Art Major; Mayor Elizabeth Minor. (7)

ABSENT: Councilor John Hill; President Jeff Buettner. (2)

Call to Order - Vice President Major called the meeting to order at 5:30 p.m.

Approval of Minutes – Mayor Minor moved to approve the minutes of the January 27, 2009 meeting as submitted. *The motion was seconded by Vice-Mayor Butler then unanimously approved by voice-vote.*

Chairman Butler presented the following:

1. Items for Discussion -

Ward 1 -

- a. 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 (Map Number 193-1-C-8) zoned Central Business, B-1 District with Historic Winchester, HW District overlay. CU-08-19

Planning Director Tim Youmans stated the request is different from the previous application in that the residence will be located in the rear of the building and a commercial area with an entrance on Wolfe Street will be located in the front. One bedroom with a window will be located on Wolfe Street but it will not have a door to the street. The Planning Commission recommended approval for the project with additional conditions including landscaping and flood proofing.

Councilor Hill arrived at 5:34 p.m.

With unanimous approval, the committee voted to send CU-08-19 forward to Council for approval.

City Wide -

- a. Second Reading, by title, for adoption: 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 TA-08-15

Mr. Youmans reported no changes were made to the ordinance since the last meeting. The ordinance will help to facilitate economic development by building in the provision to endorse projects like Celebrating Patsy Cline.

With unanimous approval, the committee voted to send TA-08-15 forward to Council for approval.

- b. Second Reading, by title: AN ORDINANCE AMENDING ARTICLE 20 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO PROCEDURES FOR FILING AN APPEAL TO THE BOARD OF ZONING APPEALS TA-08-14

Mr. Youmans stated the ordinance has not been changed since it was first presented. The shorter appeal period will allow for a more expedient process.

With unanimous approval, the committee voted to send TA-08-14 forward to Council for approval.

- c. Second Reading, by title, for adoption: AN ORDINANCE AMENDING AND RE-ENACTING ARTICLES 5, 7, 8, 9, AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO INCENTIVES FOR LEED® CERTIFICATION TA-08-12

Mr. Youmans stated the two bedroom limit requested at the last Planning & Development meeting has been added to the ordinance. No other changes have been made.

With unanimous approval, the committee voted to send TA-08-12 forward to Council for approval

2. Other Items

- a. Goodfellows Update – Vince Diem (pages 17-21)

Chairman Butler informed the committee that Zoning Administrator Vince Diem and City Attorney Anthony Williams were not available for today's meeting but Commissioner of Revenue Jay Russell, City Manager Brannon Godfrey and Police Chief Kevin Sanzenbacher were available to answer any questions on this issue.

Chairman Butler asked where Goodfellows stood with paying their taxes. Mr. Russell stated as of today they are up to date.

Chairman Butler asked if there were any problems with being late. Mr. Russell stated the January payment was due on the 22nd and was not paid until the 23rd. The payments have been late off and on since the beginning but as of today they are up to date. The Business Licenses are due March 1st and nothing has been filed as of yet. .

Councilor Willingham asked if there is a fee for paying late. Mr. Russell stated there is a 10% fee. Councilor Willingham asked if it is fair to say they are not the only ones late and Mr. Russell replied yes.

Councilor Willingham asked how many police calls were valid. Chief Sanzenbacher stated there were 15 calls since the first of the year associated with the address but only 8 were associated with Goodfellows.

Councilor Willingham stated that does not exceed the 4 calls per month. Chief Sanzenbacher stated he is correct.

President Buettner arrived at 5:52 p.m.

President Buettner asked how the calls compare to other night clubs in the area. Chief Sanzenbacher stated he was not prepared to answer. President Buettner stated at their last discussion, he was informed there are fewer calls to Goodfellows than to other clubs in the downtown area. Chief Sanzenbacher agreed but stated he had no point of reference.

Councilor McInturff asked if there are any other businesses that have a track record of being late like this one when paying taxes. Mr. Russell stated there is not.

Councilor Clark asked if Goodfellows hired private security after they were asked to. Michael Doleman, partner in Goodfellows, stated he has 15 years of experience in security. No altercations have occurred inside the establishment. Everything has been outside in the parking lot. The staff is protecting everyone inside but the finger is pointed at them when things happen outside.

Councilor Clark stated he would like to see the business keep going but if they are required to hire outside security then they need to do it.

Councilor Willingham questioned why they needed to hire security when they have not exceeded the 4 calls a month condition. He requested that Mr. Diem answer that question.

Councilor Willingham stated there seems to be some question as to what a valid police call is. It seems the issue is getting the tax bills and ABC bills paid on time which will get you in more trouble than anything else. Paying the taxes on time will go a long way.

Vice President Major stated there is a lot of confusion about what a police call is and why they are in this condition. He encouraged Chief Sanzenbacher to work with the Planning Commission to set better guidelines. Putting restrictions on businesses for police calls will make them not want to call anymore. He stated this needs to be figured out and thinks the Chief will need to take the lead on it to form realistic expectations to ensure public safety.

Chairman Butler reminded the committee the ABC investigation is still pending and a final verdict is expected before the March Council meeting. The CUP is for the night club use only and not to close the business.

- b. Discussion on: Review of Conditional Use Permit (CU-07-12) to allow continued operation of night club use at 560 North Cameron Street.

Chairman Butler stated he participated in a conference call with Mr. Diem, Mr. Youmans, and Officer Bauserman regarding an incident that occurred Friday evening at this location.

Mr. Youmans stated he did not have anything to add to the staff report submitted by Mr. Diem. The site plan that was approved by the Planning Commission required safety features to get patrons to the parking lot safely. A block of improvements were done by Wyck Street. The site plan was specific to keep the trade show and restaurant areas separate with the exception of providing a way to get to the restrooms. Events in both areas could not occur at the same time. The night club is in compliance with the CUP but the site plan is not because of the expanded use of the night club in the trade show area. A walk through was completed today with Fire & Rescue and a building official to make suggestions for improvement. It is also difficult for the police to see people in the area north of the improved parking in an area that has not been approved for parking. Mr. Youmans informed the operator that this parking area should not be used unless a site plan is approved and the expanded use of the night club is approved.

Chairman Butler stated at the end of the conference call, an extension of the CUP for 6 months was discussed to allow the operator to solve the site plan and safety concerns. The operation has had a good track record to this point but improvement is needed for people exiting and loitering on Cameron Street.

Aaron Lynch, Manager of Virginia Brewing Company, read a prepared statement providing a detailed explanation of the security measures that will be taken in the future. The measures included an increase from 11 to 18 security personnel with 3 of those being GSC certified. He provided a detailed sketch of where the security operations will be located in the establishment. He also stated the band and that genre of music will not be allowed to play in the establishment again to prevent drawing the same type of crowd back. He does not want his establishment to be known for that type of activity.

Councilor Willingham asked why the private security is being required. Chairman Butler stated it was to help with getting people to the parking lot after coming out of the building onto Cameron Street.

- c. Chairman Butler reminded the committee about the Planning Commission Retreat on February 28th at 8:15 a.m.

- d. Chairman Butler announced the OTDB Retreat will be held on March 7th at 8:30 a.m. at the Godfrey Miller Fellowship Center located at 28 South Loudoun Street. Breakfast will be served at 8 a.m.
- e. Chairman Butler announced the ground breaking ceremony for the Green Circle will be held one week from today at 4 p.m.
- f. Mr. Youmans presented a copy of the annual report of statistical data from the Board of Architectural Review, the Planning Commission, and the Board of Zoning Appeals for the committee’s review.
- g. MOTION TO CONVENE IN EXECUTIVE SESSION FOR DISCUSSION OF REAL ESTATE WHERE PUBLIC DISCUSSION WOULD ADVERSELY AFFECT THE NEGOTIATING STRATEGY AS DESCRIBED IN §2.2-3711(A)(3) OF THE CODE OF VIRGINIA

Chairman Butler moved to convene into executive session at 6:28 p.m. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

| MEMBER | VOTE |
|----------------------|------|
| Vice-Mayor Butler | Aye |
| Councilor Clark | Aye |
| Councilor Hill | Aye |
| Vice-President Major | Aye |
| Councilor McInturff | Aye |
| Mayor Minor | Aye |
| Councilor Veach | Aye |
| Councilor Willingham | Aye |
| President Buettner | Aye |

3. Adjourn

President Buettner moved to adjourn the meeting at 7:05 p.m. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*