

Minutes of the Planning & Development Committee
March 24, 2009

PRESENT: President Jeff Buettner; Vice-President Art Major; Councilor Milt McInturff, Les Veach and John Willingham (5)

ABSENT: Vice-Mayor Michael Butler; Councilor Evan Clark and John Hill; Mayor Elizabeth Minor (4)

President Buettner called the meeting to order at 4:59 p.m.

Approval of Minutes:

Vice-President Major moved to approve the February 24, 2009 minutes as submitted. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

Items for Discussion:

- MOTION TO CONVENE INTO CLOSED SESSION FOR DISCUSSION OF A PERSONNEL MATTER PERUSANT TO VIRGINIA CODE §2.2-3711.A(1).

President Buettner moved to convene in closed session for discussion of personnel matters and for discussion with the City Attorney. *The motion was seconded by Vice-President Major then unanimously approved by voice-vote.*

Mayor Minor and Councilors Clark and Hill arrived during the closed session.

Councilor Clark moved to reconvene at 5:50 p.m. *The motion was seconded by Councilor Veach 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	Absent
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

- Joint Discussion with Board of Architectural Review.

President Buettner stated at the recent Council Retreat, Council discussed the necessity of meeting with all the boards and commissions to discuss the new mission statement and goals. Council also identified the core areas that provide quality of life to the city. One of the key areas is the downtown area and how to bring in new businesses and new opportunities. The role of the BAR and whether it is or is not beneficial to the mission needs to be discussed. Council has received many comments on how the BAR is subjective and sends mixed messages to the citizens. Mr. Buettner asked how this could be improved so people will want to come downtown. Council wants to address how to maintain the historical integrity but in a way that is fair to all.

Councilor Willingham stated he believes the historic district is extremely important and it is important to expand it. The complaint he hears is it is a lengthy process and people don't understand all of the rules. The feedback Council hears is the process itself is prohibiting redevelopment. People want to invest but they also want it to be economical.

Councilor Veach stated he had a citizen whose house is in the historical district asked to have the boundary lines of the district changed to go around his house. Councilor Veach would like to see the process changed or some of the items handled administratively.

BAR Chair Lawton Saunders stated in looking at a list of applicants over the last 6 years, only 2 or so have been denied. No one likes to go before a board. He has a house in the district but he chose to build there. There are standards that have to be met. The BAR has created packets for citizens to make the standards easier to understand. People don't want to pick their colors off a palette. Generally, the BAR tries to work with people. There are certain things the BAR has tried to be consistent with like vinyl siding or a slate roof. The standards are very specific about that. There are some areas in the district he feels shouldn't be in the historic district because the houses are not worth being there. If you look at some of the areas that have come back in the last few years, it has been a benefit. Other than the famous TuTu Pink case, he cannot think of anything downtown that has been affected. If you vary from the Department of Interior standards, you are being arbitrary. In most cases, anyone who has come before the BAR has been given suggestions but no one has been absolutely denied. There is a way around the BAR if you want to do a demolition. He has been before the BAR many times for his own property and has always thought he was treated fairly even before he became a member.

Councilor Clark asked if anyone had a suggestion on how to make the process more user-friendly and streamlined for renovations.

BAR member Larry Belkin suggested having more screening from the staff to prevent incomplete information and proposals which does not meet the guidelines from coming in front of the board. The BAR always tries to be helpful within the guidelines of the Department of Interior. Generally speaking, when people come in front of the BAR, their project is improved. The BAR contributes to the city by trying to be flexible but consistent and logical.

Mr. Saunders stated a lot of the cases can go on the consent agenda and are approved immediately. Any Tax Credit work does not have to go before the BAR anymore. The State and Federal agencies are stricter than the BAR is.

Vice-President Major asked if there is a mechanism that if an applicant came before you, their proposal is approved but more suggestions are made to make it conditional. Mr. Saunders stated the BAR tries to separate what they do and don't have jurisdiction on. It is not meant to be intimidating. It is meant to be helpful.

President Buettner stated it may not mean to be intimidating but to the applicant it is sometimes because the two issues become blurred together. Mr. Saunders stated the BAR tries not to do that. The proposal either meets the criteria or it doesn't.

Mr. Belkin stated the BAR does have a conceptual approval where an applicant can get a preliminary approval before going forward with the design. A lot of what is in the guidelines is not very clear. They are really visual things instead of quantitative. The BAR is left to make a judgment to see if something fits into the character of the neighboring properties. If a person feels they have been intimidated by the process, he would like to point out that the BAR members live in the community and generally improve these things. The members are designers, realtors, and builders who try to help but don't go beyond the guidelines. If staff had the applicants more prepared before they come to the BAR, a lot of this would be eliminated. If the BAR was stricter and less flexible, there would be more complaints. Everyone in the district is bound by the same guidelines.

BAR member Mark Lore stated President Buettner put it well that the challenge is to balance a healthy economic historic district while keeping it historic. In his 6 years on the BAR, he has seen people get pressured when they want something the BAR cannot allow in the guidelines or they want something that was grandfathered in on a property but is currently not allowed. The BAR tries to be reasonable. If a project is on the back elevation, the BAR will try to be a bit arbitrary but we try to consider it as a whole. He doesn't know how the guidelines or mechanisms can be narrowed down without creating more problems. The BAR is a group of people exercising their judgment to improve this town and it works very well.

President Buettner thanked the BAR members for attending the meeting.

1. Items for Discussion -

a. Ward 1

- i. CU-09-02 Request of Richard Bell on behalf of Adams-Nelson Management for a modification of conditions for existing conditional use permits for private community center use and office use greater than 2,000 square feet per floor at 403 South Loudoun Street (*Map Number 193-1-H-1*) zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

Councilor Willingham excused himself from the discussion.

Mr. Youmans stated the request is a modification of the CUP approved in 2000. The restriction at that time was related to the limited parking in the area. Since then, the parking exemption area has been extended. The second restriction dealt with the private community center and the number and size of events derived on the occupancy levels. The applicant wants to modify the third condition relating to the time of events and parking. The applicant feels parking can be accommodated during the weekday hours. They would also like to eliminate condition 7 requiring a summary of the actual number of events held according to occupancy level be sent to Council each year. The Planning Commission agreed with the request but added an initial one year review.

Vice-President Major moved to send CU-09-02 forward to Council. *The motion was seconded by Mayor Minor then approved 7/0 with Councilor Willingham abstaining.*

- ii. **CU-09-01** Request of Richard Oram and Debra Johnson on behalf of the Union Jack Pub & Restaurant for a conditional use permit for nightclub use at 101 North Loudoun Street (*Map Number 193-1-B-10*) zoned Central Business, B-1 District with Historic Winchester, HW District overlay.

Zoning Administrator Vince Diem stated the request is for night club use in the Historic District. It is similar to past downtown night club applications with live amplified music on the top floor of the establishment. Due to noise level concerns, staff conducted an exercise on March 10th to measure the sound levels in the neighboring apartment and outside the establishment. The background noise from the appliances in the apartment measured approximately 60 decibels. The decibels rose to 66 with a conversation in the same room. Although the noise from the performance in the establishment measured 80 decibels and rose to 88 decibels with applause, sound could not be detected with a naked ear in the apartment. Staff asked the applicant to increase the noise in the establishment to 110 decibels and asked the crowd to make as much noise as possible; the noise measured 58 decibels in the apartment. The Planning Commission recommended approval with conditions similar to other night club use. Mr. Diem stated condition number 3 limits the amount of noise during certain hours. He suggested amending number 6 by striking “12 a.m.” and replacing it with “midnight” for further clarification.

Councilor Willingham asked if the criminal offense police calls in condition number 5 have to be in the building or if it could be outside in the vicinity. Mr. Diem stated it could be clarified to state within the establishment.

City Attorney Anthony Williams stated the condition could be amended to read “criminal offense calls occurring on or attributable to the property”.

Councilor Willingham moved to send CU-09-01 forward to Council with the proposed amendments to conditions 5 and 6. *The motion was seconded by Vice-President Major and approved 7/0 with President Buettner abstaining.*

- iii. **RZ-09-02** AN ORDINANCE TO REZONE 0.824 ACRES OF LAND AT 135 AND 137 LINDEN DRIVE (*Map Numbers 149-2-A-3 and 4*) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT TO RESIDENTIAL OFFICE (RO-1) DISTRICT. The Comprehensive Plan calls for expansion of the RO-1 District on Linden Drive. RO-1 zoning yields up to 3.5 units per acre.

Planner Will Moore directed the committee’s attention to the proffer statement revision received late this afternoon. The applicant has proffered to consolidate the properties to alleviate any future variance requests. The key aspect to the proffer is at the time of consolidation, there will be a driveway dedication on Linden Drive. The second proffer is at the time of redevelopment, the applicant will grant interparcel access to one or both adjacent properties fronting Linden Drive.

Councilor Willingham asked if Council could prevent this property from becoming tax exempt as a part of the rezoning. Mr. Williams stated the applicant would have to come through the process to become tax exempt. He would have to research if it could be part of the rezoning process.

Councilor Willingham moved to send RZ-09-02 forward to Council. *The motion was seconded by Vice-President Major then approved 7/0 with Councilor Clark abstaining.*

Vice-President Major moved to temporarily adjourn the Planning and Development meeting at 7:04 p.m. to conduct a Special Meeting of Council for the public input on the CDGB and HOME funds. *The motion was seconded by Councilor Willingham then unanimously approved by voice-vote.*

**President Buettner reopened the Planning and Development meeting at
7:18 p.m.**

2. Other Items

a. Strategic Plan Discussion – Brannon Godfrey, City Manager

Mr. Godfrey stated at the Council Retreat, Council identified specific targets to measure over a 1, 5, and 10 year period. Some of the goals needed more statistics for measuring the progress. Since the retreat, staff put the goals and measures in a format to refer to periodically to measure progress. He asked for feedback on the format to make sure it is reflective of the specific objectives Council wants staff to meet.

Councilor Veach stated Council does not have impact over the staff in 2.5-1 and suggested the City Manger be listed instead especially for motivation.

Mr. Godfrey stated staff will need to put in some base line statistics. The economic measures are done on a quarterly basis so progress has not been seen as of yet.

Vice-President Major stated the Virginia Work Skills program does not have to be listed under Education but it would be wise to mention that Council is committed to something like that with a way to measure it too.

Councilor Willingham stated Adult Education will need to be added. Vice-President Major suggested it be discussed at the HEW meeting to determine a lead agent.

b. Amendments to Off-Street Parking – Vince Diem, Zoning Administrator

Mr. Diem presented a summary of the proposed amendments to the off street parking requirements that have come about after the discussion at the Council Retreat.

President Buettner suggested the committee take time to digest the information and discuss it at the next Planning and Development meeting.

c. 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

President Buettner moved to convene into executive session for the discussion of real estate and consultation with legal counsel. *The motion was seconded by Councilor Veach then unanimously approved by voice-vote.*

Councilor Willingham moved to reconvene at 8:26 p.m. *The motion was seconded by Councilor Clark 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	Absent
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

d. Virginia Main Street Statistics for Winchester – for information only.

3. **Adjourn**

Councilor Willingham moved to adjourn the meeting at 8:27 p.m. *The motion was seconded by Mayor Minor then unanimously approved by voice-vote.*