

## PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, January 20, 2015, at 3:00 p.m. in Council Chambers, 15 N. Cameron Street, Winchester, Virginia.

**CALL TO ORDER:** Mr. Youmans called the meeting to order at 3:00 p.m.  
**PRESENT:** Commissioner Slaughter, Commissioner Smith, Commissioner Loring, Commissioner Shickle, Commissioner Wolfe, Commissioner Tagnesi, Commissioner Fieo  
**ABSENT:** None  
**EX-OFICIO:** City Manager Freeman  
**FREDERICK CO. LIAISON:** None  
**STAFF:** Timothy Youmans, Aaron Gridale, Josh Crump, Catherine Clayton  
**VISITORS:** Lawton Saunders, Timothy Painter, Don Crigler, Ty Lawson

### ELECTION OF OFFICERS:

Mr. Youmans called for nominations for Chairman. Commissioner Smith nominated Commissioner Slaughter. Commissioner Tagnesi seconded the nomination. Hearing no other nominations for Chairman, Mr. Youmans called for a motion to close the nominations. Commissioner Tagnesi moved to close. Commissioner Fieo seconded the motion.

Mr. Youmans called for nominations for Vice Chairman. Commissioner Smith nominated Commissioner Loring. Commissioner Tagnesi seconded the nomination. Hearing no other nominations for Vice Chairman, Mr. Youmans called for a motion to close the nominations. Commissioner Tagnesi moved to close. Commissioner Fieo seconded the motion.

Mr. Youmans then called for a motion to elect Commissioner Slaughter as Chairman and Commissioner Loring as Vice Chairman. Commissioner Tagnesi moved to elect as nominated. Commissioner Fieo seconded the motion. Voice vote was taken and the motion passed unanimously.

At this time, Mr. Youmans relinquished control of the meeting to Chairman Slaughter.

### APPROVAL OF MINUTES:

Chairman Slaughter called for corrections or additions to the minutes of December 16, 2014. Hearing none, he called for a motion. Commissioner Shickle moved to approve the minutes as submitted. Commissioner Wolfe seconded the motion. Voice vote was taken and the motion passed 7-0.

### CORRESPONDENCE:

Mr. Youmans advised that there are no changes to the Public Hearing items but that the Commissioners have received an updated agenda indicating the three (3) site plans and one (1) minor subdivision under Administrative Approvals.

### CITIZEN COMMENTS:

None.

### REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

None.

**PUBLIC HEARINGS – NEW BUSINESS:**

**CU-14-757** Request of Painter-Lewis, PLC, on behalf of Long Term Care Properties, LLC, for a conditional use permit for Nursing & Rehabilitation Facility and Corridor Enhancement Certificate of Appropriateness for the square footage and roof pitch of the proposed building at 940 Cedar Creek Grade (Map Number 249-1-2) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. **(Mr. Crump)**

Chairman Slaughter recused himself from this matter and turned the meeting over to Vice Chairman Loring.

Mr. Crump presented the staff report stating that the applicant is seeking a conditional use permit to allow for a Nursing & Rehabilitation Facility use under Section 8-2-5 and to allow a single structure in the Cedar Creek Grade Corridor Enhancement (CE) District where the footprint of the building exceeds the 10,000 square-foot ‘by-right’ limit and roof pitch less than 6:12 under Section 14.2-6.10b and 14.2-6.10e. The floor plans show the building is proposed to have a gross area of 76,630 square-feet on one continuous level with seven wings to accommodate 120 beds. An existing rehabilitated barn located in the southwest area of the site will remain and be connected to a proposed 1,040 square-foot three bay service building. He concluded by stating that most of the issues for this project have been resolved in the proffers for the rezoning of the property and that he is available for questions.

*Vice Chairman Loring called for questions from the Commission.*

Commissioner Wolfe asked if there are any traffic concerns and if there will be a traffic light. Mr. Crump stated that there are no plans at this time to install a traffic light.

**Vice Chairman Loring Opened the Public Hearing**

Timothy Painter, applicant, said that he has nothing to add but that he is available for questions.

*Vice Chairman Loring called for questions from the Commission.*

Commissioner Tagnesi asked if there is a time frame for construction to which Mr. Painter said that they are looking at the May/June time frame.

**Vice Chairman Loring Closed the Public Hearing**

*Vice Chairman Loring called for discussion from the Commission. Hearing none, he called for a motion.*

*Commissioner Shickle moved that the Commission forward CU-14-757 to City Council recommending approval because the proposal, as submitted, should not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The recommendation is subject to:*

- 1. General conformity with submitted building elevations and floor plans; and,*
- 2. Staff review and approval of a related site plan.*

*Commissioner Tagnesi seconded the motion. Voice vote was taken and the motion passed 6-0-1.*

At this time, Vice Chairman Loring returned control of the meeting to Chairman Slaughter.

**CU-14-761** Request of Lawton Saunders on behalf of North Loudoun Renovations, LLC, for a conditional use permit for ground floor apartments at 317 South Cameron Street (Map Number 193-1- - K-14) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (**Mr. Crump**)

Mr. Crump presented the staff report stating that this is a request pertaining to the conversion of ground floor to a multifamily use. The Comprehensive Plan identifies this property as a redevelopment site and calls for a specific land use action. The applicant intends to develop the property into an 11 unit apartment building targeting populations such as young professionals and empty nesters. In their proposed site plan, of the 11 units, a total of six ground floor units are planned on the property; three in the front section in the old jail building and three in the rear annex. He concluded by stating that he is available for questions.

*Chairman Slaughter called for questions from the Commission.*

Commissioner Smith stated that a previous developer had presented this at an earlier time and there was discussion and concern that a portion of this building is historical and he asked if this is still a concern and if it is going to be preserved. Mr. Crump stated that he would defer to the applicant but that he does understand that the outside would be preserved using tax credits.

Lawton Saunders approached and advised the Commission that the entire historic front building is planned to be preserved with tax credits and there will be no changes to the exterior. The rear portion that was built in 1992 will have a second story added to it though.

*Chairman Slaughter called for additional questions from the Commission for staff.*

### **Chairman Slaughter Opened the Public Hearing**

Lawton Saunders, applicant, stated that he had nothing further but that he is available for additional questions.

### **Chairman Slaughter Closed the Public Hearing**

*Chairman Slaughter called for discussion from the Commission.*

Commissioner Shickle said that her concern was with parking but that it does appear that there will be adequate off-street and on-street parking to accommodate the units. Commissioner Loring said that if the wall comes down in the future, this would allow access for additional parking.

*Hearing no other discussion, Chairman Slaughter called for a motion.*

*Commissioner Fieo moved that the Commission forward CU-14-761 to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, as submitted, will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The approval is based upon City Council finding that the proposed ground-floor residential unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the site plan approval by staff.*

*Commissioner Tagnesi seconded the motion. Voice vote was taken and the motion passed 7-0.*

**PUBLIC HEARINGS – Continued**

**RZ-14-628** AN ORDINANCE TO REZONE 5.1674 ACRES OF LAND AT 380 MILLWOOD AVENUE (Map Number 233-01- -3) FROM MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT ZONING TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT ZONING WITH PLANNED UNIT DEVELOPMENT (PUD) OVERLAY. (**Mr. Crump**)

Chairman Slaughter advised that this was a case that was tabled at the December 2014 Planning Commission meeting.

Mr. Crump presented the staff report stating that this is a request to rezone from MR to MR with a PUD overlay which would permit enlarging the existing nursing home without increasing the number of beds. In a letter from the applicant, this rezoning will bring the nursing home/assisted living facility back to a by-right use. The use was established in 1968 and was a by-right use until 1990 when the property was rezoned MR, thus establishing a “non-conforming use” and preventing the opportunity for expansion. The proposed site plan shows a 3,000 square foot footprint for a 6,000 square foot two-story addition. The expansion is intended to improve the operation of the facility itself and does not increase the number of patient beds or staff. As a result, this expansion and improvements should have no impact on the City, fiscally or in terms of traffic. The expansion is also in line with the City’s Comprehensive Plan for the area, which calls for proactive development of property where needed to achieve maximum sustainable potential. He concluded by stating that he is available for questions.

*Chairman Slaughter called for questions from the Commission.*

Commissioner Fieo stated that although there is no increase in the number of beds, he asked if there will be an increase in services and the number of employees and if there will be any traffic impacts. Mr. Crump said that he does not believe that there will be any increases.

Chairman Slaughter asked if the applicant wants to do any future expansion, what procedures will they have to go through to which Mr. Crump said that they will have to submit a minor site plan revision for any future expansions and a site plan approval as well. These would then be brought before the Planning Commission for review. Mr. Youmans added that if there would be a change in the development plan including the number of beds or anything different than what is called out here, the applicant would have to submit for a PUD revision.

Commissioner Loring then said that based upon the property line, are there any constraints to keep them from the rail line to which Mr. Youmans said that with the PUD, it basically allows the applicant to specify what they want to propose as a setback away from it but in the district, they will probably want to be a minimum 10-foot offset there.

**Chairman Slaughter Opened the Public Hearing**

Don Crigler, DFC Architects, representative for the applicant, said that he really has nothing to add but that he is available for questions. He did state that these are the last two (2) wings to be renovated and that there will be no increase in the number of beds or in functions/services.

**Chairman Slaughter Closed the Public Hearing**

*Chairman Slaughter called for discussion from the Commission. Hearing none, he called for a motion.*

*Commissioner Tagnesi moved that the Commission forward RZ-14-628 to City Council recommending approval as depicted on an exhibit entitled “Rezoning Exhibit RZ-14-628, Prepared by Winchester Planning Department, 10-03-2014” because the request is consistent with the Comprehensive Plan which calls for Redevelopment in the site.*

*Commissioner Fieo seconded the motion. Voice vote was taken and the motion passed 7-0.*

**RZ-14-663 AN ORDINANCE TO REZONE 10.59 ACRES AT 200 MERRIMANS LANE (Map Number 149-01- -7 - >A<01) FROM MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH RESIDENTIAL BUSINESS (RB-1) DISTRICT OVERLAY TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT. (Mr. Youmans)**

Chairman Slaughter advised that this was a case that was tabled at the December 2014 Planning Commission meeting and that the public hearing was left open at that time.

Mr. Youmans presented the staff report stating that this request would conditionally rezone land from RB-1 (CE) and MR to MR with a PUD overlay which would allow up to 26 townhouse-style rental units and 144 apartment units for a total of 170 dwelling units. The request includes proffers relating to the development of the PUD. The Comprehensive Plan identifies the area as a redevelopment site and states that “*zoning for development in this central area should be medium density unless age-restricted housing is proposed, in which case, high density zoning may be appropriate.*” This language was added at the request of City Council to intentionally clarify that high density development may be appropriate only if two conditions are included, which are:

- Planned Unit Development (PUD) overlay zoning; and,
- Age-restrictive housing

He added that the submitted rezoning request does fulfill the first prerequisite (PUD Zoning) but is not limited to age-restricted housing. As such, the request is contrary to the Comprehensive Plan in this regard. The applicant does make a strong case, however, for why adherence to the age-restriction recommendation of the Comprehensive Plan update should not be required and instead allow for market rate apartments that would appeal to two of the three targeted populations identified in the Comprehensive Plan and the Master Economic Plan. He also said that it does an excellent job of outlining the unlikelihood that families with school-aged children would want to rent a more expensive luxury apartment as compared to renting or purchasing a less expensive single-family house elsewhere in the City. The applicant has voluntarily submitted proffers to mitigate potential impacts arising from the rezoning of the property from RB-1 (CE) & MR to MR (PUD). Additionally, site development proffers help to mitigate potential impacts arising from the inclusion of townhouse-style units in the project and by limiting the number of bedrooms which might otherwise create increased school-aged population placing demands on the City’s overcrowded schools. He concluded by stating that he is available for questions.

*Chairman Slaughter called for questions from the Commission.*

Commissioner Loring asked if the Museum of the Shenandoah Valley and the applicant have resolved their issues to which Mr. Youmans said that he would defer to the applicant but that he does believe they have. Commissioner Loring then asked if there will be focused screening on the north and south sides. Mr. Youmans responded that there is screening depicted on the development plan on the north side between the townhouse units and the trail and on the south side there probably would be some screening that the ordinance would otherwise require. Commissioner Loring then questioned the number of school-aged children and asked who bears the additional cost if the applicant’s numbers are incorrect. Mr. Youmans advised that, lacking a proffer to mitigate that, the City will have to bear the burden of the additional cost.

Commissioner Tagnesi asked if construction would be concurrent with the construction of the new John Kerr Elementary School. Mr. Youmans said that he would defer to the applicant but that there may be overlap if this request is approved.

Commissioner Fieo said that he has a reservation about the proffer as it pertains to the \$333,000. He said that the proffer states that this is a maximum amount solely for the completion of the road and will be given only if needed. There is nothing to give the City any reliance upon whether or not the number of calculated school-aged children is appropriate to which Mr. Youmans responded that is correct. Commissioner Fieo said that there is a net gain estimated at \$97,000 per year to the City but that presupposes that there is only an \$82,000 expense for school-aged children. Also, the .079 is a median between the upper and lower values in other apartments in the area and with this being right across from the new school, he said that he has reservations that the number of people being attracted there with school-aged children might not be greater than estimated but there is no protection if the applicant's numbers are wrong.

Commissioner Shickle asked if the applicant utilized the most up-to-date traffic study model to which Mr. Youmans responded that he believes that they did because staff did point out to them that it was being modified. Mr. Youmans then said that when Mr. Eisenach looked at the numbers, he felt as though the applicant was estimating a little too much traffic so he does not anticipate that the projected volume will be as high as what was indicated in the study. Commissioner Shickle then said that she understands that the City had a market study done to identify what the gap is in inventory as far as this type of housing but she asked if there is a count to indicate where the City is with projects on line and if we have reached the threshold. Mr. Youmans said that within the City, we probably have not hit the threshold however, the unknown is Frederick County, particularly with the Russell 150 site. The City is in a larger regional market, not a City of Winchester market, so there is going to be a big uncertainty with regard to how many units get built within these certain price points.

Commissioner Wolfe asked about the zoning and why the "tail" is being rezoned. Mr. Youmans said that the "tail" is being rezoned mainly because it is a part of this site and we do not want to perpetuate the RB-1 Residential Business zoning that was in this location. It did not get rezoned to B-2 when the two (2) acres closest to the CVS store got rezoned conditionally to B-2 so it is more a matter of housekeeping to get it changed at this point. Commissioner Wolfe then asked Mr. Youmans to explain what else could go in the area if they did not do this planned unit development. Mr. Youmans said that it is conditionally zoned MR so there could be single family detached residences that could have 3-, 4- or even 5 bedrooms and could easily generate more than the 13 school-aged children.

Chairman Slaughter asked if Mr. Williams has approved the proffers to which Mr. Youmans said that Mr. Williams has looked at it and has not indicated any concerns. His main concern was with the Meadow Branch Avenue funding to make sure that it is consistent with the language in the approved Memorandum of Agreement that the City executed with Ridgewood Orchard. Chairman Slaughter then asked Mr. Youmans to explain what assurances the City has if this development changes hands. Mr. Youmans said that the proffers go with the land and the development plan goes with the land regardless of who the subsequent developer or builder is. If there would be any proposed deviation, then it would have to come back before Planning Commission and City Council and staff would look for updated proffers and an updated development plan and potentially updated fiscal and traffic analysis. Chairman Slaughter then commented as to the quality of development, anything that is not proffered because of the PUD, would the Planning Commission still have an opportunity to look at that as well if there are any deviations in that regard. Mr. Youmans said that what is presented here is part of their PUD package and if they intend to deviate from that, they would have to come back to the Planning Commission and City Council.

**Chairman Slaughter Continued the Public Hearing from the December 16, 2014, Meeting**

Ty Lawson, representative for the applicant, stated that they met with the Museum of the Shenandoah Valley and have worked out some agreements that will allow for a blending of the two properties. He said that there is screening all around as is required by ordinance. He said that they intend to begin construction late summer but stated that they should be behind the school construction. He added that they are working with all parties involved to coordinate and have everything worked out together. He then said that these are tax-positive units and that they feel confident they are meeting the age-restricted requirement in the Comprehensive Plan. He concluded by stating that he is available for questions.

**Chairman Slaughter Closed the Public Hearing**

*Chairman Slaughter called for discussion from the Commission.*

Commissioner Smith said that he feels comfortable with the progress that has been made and that he would have no problem with recommending the project. Commissioner Loring said that he is concerned about the estimate of only 13 school-aged children but that he is okay overall. Commissioner Fieo said that after the explanation of the by-right and medium density zoning, he is more secure with it now. Commissioners Tagnesi, Wolfe, and Shickle all said that they are comfortable with it. Chairman Slaughter said that generally he agrees and that the Comprehensive Plan is just a guide.

*Hearing no other discussion, Chairman Slaughter called for a motion.*

*Commissioner Smith moved that the Commission forward RZ-14-663 to City Council recommending approval as depicted on an exhibit entitled “Rezoning Exhibit RZ-14-663, Prepared by Winchester Planning Department, December 1, 2014,” because the request is consistent with the Comprehensive Plan which calls for Neighborhood Stabilization in the site. The approval is subject to the Generalized Development Plan revised as of December 11, 2014, and the proffers in the proffer statement titled “Proffer Statement a Proposed Rezoning” dated October 21, 2014, and revised on December 11, 2014.*

*Commissioner Tagnesi seconded the motion. Voice vote was taken and the motion passed 7-0.*

**NEW BUSINESS:**

None.

**OLD BUSINESS:**

None.

**OTHER BUSINESS:**

**Administrative Approval(s):**

- 1) Site Plan Report
  - a. **SP-14-771** 1131 Berryville Avenue – Harbor Freight Tools – Minor Revision

Commissioner Loring moved to approve. Commissioner Fieo seconded. Voice vote was taken and the motion passed 7-0.

- b. **SP-14-777** 1936 Valley Avenue – Malloy Ford – Minor Revision

Commissioner Loring moved to approve. Commissioner Fieo seconded. Voice vote was taken and the motion passed 7-0.

c. **SP-15-016** 154 Commercial Street – Major Properties – Minor Revision

Commissioner Wolfe moved to approve. Commissioner Tagnesi seconded. Voice vote was taken and the motion passed 7-0.

2) Minor Subdivision Report

a. **MS-14-778** 1936 Valley Avenue – Malloy Ford – Lot Consolidation

Mr. Crump advised that this was noted for informational purposes.

**ADJOURN:**

With no further business, the meeting adjourned at 4:12 p.m.