

PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, April 15, 2014, at 3:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

CALL TO ORDER: Chairman Wiley called the meeting to order at 3:00 p.m.

PRESENT: Chairman Wiley, Commissioner Slaughter, Commissioner Smith, Commissioner Shickle, Commissioner Loring

ABSENT: Commissioner Beatley, Commissioner McKannan

EX-OFFICIO: Councilor Tagnesi, City Manager Iman

FREDERICK CO. LIAISON: Commissioner Kenney

STAFF: Tim Youmans, Will Moore, Aaron Grisdale, Catherine Clayton

VISITORS: Bob Pinner, Jay Kreger, Joe Kikus, M.D., Chris Akers, Ryan Hoover

APPROVAL OF MINUTES:

Chairman Wiley called for additions or corrections to the minutes of March 18, 2014. Hearing none, he called for a motion. Commissioner Slaughter moved to approve the minutes as submitted. Commissioner Smith seconded the motion. Voice vote was taken and the motion passed 5-0.

CORRESPONDENCE:

Mr. Youmans advised the Commission that they have received an updated staff report for Item 2C, Public Hearing CU-14-166 whereby the Staff Report has been updated to provide a motion to table. The second is an updated Recommendation for Item 2D, TA-14-118.

CITIZEN COMMENTS:

None.

REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

Commissioner Kenney reported that at the April 7th meeting, the Frederick County Planning Commission approved a conditional use permit for a kennel in the Back Creek District off of Middle Road; worked on an Ordinance amendment to the Frederick County Code to bring the Floodplain district in to compliance with the Virginia State Department of Conservation and Recreation, which was approved and sent forward to the Board of Supervisors; two (2) items that came from the Business Friendly subcommittee, one was a small revision to the Master Development Plan on how the Commission works through the County to try to streamline the process a little to be more user-friendly and the second was landscape requirements, Ordinance 203 for buffered landscaping, which is also a business-friendly recommendation; reviewed UDA centers in the 2030 Comp Plan with some minor revisions to make them more user-friendly.

PUBLIC HEARINGS:

TA-14-120 AN ORDINANCE TO AMEND ARTICLES 1 AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF MEDICAL CARE FACILITY AND PERMITTED USED IN THE PLANNED COMMERCIAL (PC) DISTRICT. **(Mr. Grisdale)**

Mr. Grisdale presented the staff report stating that this is a privately sponsored text amendment pertaining to the definition and proposed use of *Medical Care Facility* within Articles 1 and 13 of the Zoning Ordinance. The current Zoning Ordinance provisions for the Planned Commercial (PC) District allow for *Professional Offices*, which includes doctor's offices; however, more involved medical uses including outpatient surgery centers are not permitted within the PC district. As a result, the applicant is submitting this privately sponsored zoning text amendment application to modify the Zoning Ordinance to define and allow such uses. He added that several other localities in Virginia have an intermediate definition that falls between professional offices and hospital use, which staff believes is the general area that the applicant is proposing to define and allow for use. Presently, outpatient surgical uses are permitted by-right within the Health Services (HS) and Medical Center (MC) Districts, but are not permitted in other commercial districts where *Professional Offices* are permitted. The proposed definition of *Medical Care Facility* closely mirrors similar definitions for Loudoun County, Fairfax County, and the City of Alexandria. Additionally, staff has reviewed the application and believes that the proposal presents good planning practice and could be considered a potential by-right use within the PC district. The Zoning Ordinance would be positively served by adding the proposed definition and use provisions by providing clearer definitions pertaining to medical uses. He concluded by stating that he is available for questions.

Chairman Wiley called for questions from the Board.

Chairman Wiley Opened the Public Hearing

Chris Akers, Littlejohn Engineering Associates, advised that he is here on behalf of the applicant who is trying to bring some additional business to the area. He added that they are seeking this change to the Zoning Ordinance to allow for this type of use. He concluded by stating that he is available for any questions.

Commissioner Slaughter said that his question about ambulances coming in has been answered but he asked for some insight as to the type of services that will be offered there and what typically the neighborhood can expect to see as far as traffic coming through there.

Mr. Akers stated that there will be scheduled appointments for minor procedures so there should not be a rush of traffic in or out, no high volumes. The services will not be on an emergency basis and there should not be any ambulances in or out.

Chairman Wiley Closed the Public Hearing

Chairman Wiley called for discussion from the Commission.

Commissioner Slaughter stated that his questions about the traffic and impact on the neighborhood have been answered and that he would have no problem supporting the amendment.

Hearing no other discussion, Chairman Wiley called for a motion.

*Commissioner Slaughter moved to forward **TA-14-120** to City Council as identified in "Draft 2 – 3/28/14" with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing for clearer standards for potential medical uses, as well as providing for expanded opportunities for medical services within the City.*

Commissioner Loring seconded the motion.

Voice vote was taken and the motion passed 5-0.

CU-14-143 Request of Ryan Hoover, dba Vintage Bavarian, LLC, for a conditional use permit for auto service use at 24-26 West Hart Street (*Map Number 212-01-M-2*) zoned Central Business (B-1) District. **(Mr. Moore)**

Mr. Moore presented the staff report stating that uses in the strip building include a nonconforming auto service establishment, a carpet cleaning service and storage uses. He added that an automobile service establishment may be considered as a conditional use within the B-1 District provided that all service and repair is within a building enclosed on all sides. There is a history of auto service uses in the existing strip commercial building, including one that received a conditional use permit in 2010, that is no longer in operation. He said that the conditional use approval in 2010 was conditioned as follows:

1. All service and repair of vehicles is to occur inside the building;
2. The overhead door is to remain closed during all service and repair of vehicles;
3. Hours of operation shall be no earlier than 7am and no later than 10pm;
4. No inoperable vehicles shall be stored outside unless a revised site plan showing provision of required screening per the Ordinance is approved and implemented; and,
5. Staff review and approval of the related site plan.

Mr. Moore stated that the applicant acknowledges in his letter that all repair will occur within the enclosed building as required and that there will be no outside storage of tools, equipment, chemicals/fluids, or inoperable vehicles. The applicant does not propose any site improvements in conjunction with the use and that sufficient illumination of the off-street parking area is already provided. He concluded by stating that if favorable consideration is given, staff would recommend a condition that inoperable vehicles not be permitted to be stored outside unless a revised site plan showing provision of required screening per the Ordinance is approved and implemented. He then added that he is available for questions.

Chairman Wiley called for questions from the Commission.

Commissioner Slaughter asked if the equipment would be too loud and heard outside to which Mr. Moore responded that keeping the doors closed will help with noise mitigation.

Commissioner Loring asked about site improvements and signs to which Mr. Moore said that the applicant is not proposing any site improvements and that any requests for signs will be dealt with through a sign permit and through Zoning review.

Chairman Wiley Opened the Public Hearing

Ryan Hoover, applicant, stated that he is available to answer any questions.

Chairman Wiley asked if Mr. Hoover is okay with everything presented so far based upon the CUP requirements to which Mr. Hoover said absolutely. Chairman Wiley then asked if Mr. Hoover is okay with the hours of operation. Mr. Hoover responded that he has a day job right now and he is not looking to go full time at present and that is the reason for the requested weekend hours.

Chairman Wiley Closed the Public Hearing

Chairman Wiley called for discussion from the Commission.

Commissioner Smith asked, since Mr. Hoover will be doing minimal repair at least for now, is a clause necessary about keeping the door shut to which Commissioner Slaughter said yes just based upon the noise standpoint.

Chairman Wiley asked if there have been any concerns or calls from neighbors across the street to which Mr. Moore responded that staff has received no communication and, to reassure Commissioner Smith, the requirement of keeping the door closed would only apply when actual service or repair is occurring on vehicles.

Hearing no further questions or discussion, Chairman Wiley called for a motion.

*Commissioner Loring moved to forward **CU-14-143** to City Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommendation is subject to the following:*

- 1. All service and repair of vehicles is to occur inside the building;*
- 2. Overhead doors are to remain closed during all service and repair of vehicles;*
- 3. Hours of operation shall be no earlier than 7am and no later than 10pm;*
- 4. No inoperable vehicles shall be stored outside unless a revised site plan showing provision of required screening per the Ordinance is approved and implemented; and,*
- 5. Staff review and approval of the related site plan.*

Commissioner Shickle seconded the motion.

Voice vote was taken and the motion passed 5-0.

CU-14-166 Request of Oakcrest Properties for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. **(Mr. Moore)**

Mr. Moore presented the revised staff report (updated 4/16/14) as well as an email request from the applicant, which the Chairman has a copy, whereby the applicant has requested that action be tabled on this request until the May 20th meeting. He added that he would like to give a brief rehash of the report from the Work Session and to give the public who are here today the opportunity to speak. Mr. Moore

said that this request is for a re-approval of an expired conditional use permit from 2009 which was approved in April of 2010. Additionally, there was a separate BAR approval which is also expired but the applicant is going before the Board this Thursday to seek re-approval of the same original design that was approved in 2009. During the same time, the applicant applied for and received an administrative modification of two dimensional standards: lot width (37.83', where 40' is otherwise required) and side yard (5.83', where 6' is required). These modifications remain in place. Mr. Moore added that the original approval included 3 conditions as follows:

1. Approval of necessary modifications or variances for lot width and side yard deficiencies;
2. The owner providing an easement at no cost, if deemed necessary and upon request by the City, across a portion of the rear of the property to facilitate the future alignment of the Green Circle Trail. This condition shall be voided if the alignment of the trail terminates to the south of the property; and,
3. Staff review and approval of the related site plan.

Mr. Moore stated that conditions 1 and 2 no longer apply as they have been approved and remain valid and the alignment of Green Trail has been finalized and terminates south of the subject property so the easement is no longer necessary. Additionally, the site plan depicts the provision for two required off-street parking spaces from an unrecorded ingress/egress toward the rear of the property and that the plan calls for gravel surfacing of the spaces. He then said that a question arose in the Planning Commission work session as to whether access could be guaranteed if the ingress/egress is unrecorded. The applicant is consulting with an attorney and doing further property research in an attempt to resolve this issue in the near future. This is why the applicant has requested that the Commission table the request until its May 20, 2014, meeting. Mr. Moore said that the Commission indicated a desire to include a walkway connecting from the front of the property to the rear unit access. The applicant is agreeable to this and staff would like this to be included in the related site plan. Staff requests input from the Commission as to whether a waiver of surfacing and curbing requirements for the spaces and travel way is supported. He concluded by saying that he is available for questions and urges the Commission to open the public hearing since neighbors were notified of such.

Chairman Wiley called for questions from the Commission.

Commissioner Slaughter asked for guidance for the waiver to which Mr. Moore responded that the applicant is showing gravel parking in the rear and, in a rear yard this would be permissible for a single family dwelling. Anything other than a single family dwelling, the standard is that the off-street parking spaces should be curbed and surfaced. The applicant is requesting this to be gravel. He added that the Commission has had similar requests where the off-street parking for two-family dwellings was accessed off of alleyways where there was favorable recommendation of a waiver for the gravel surface. In those areas, we have recommended that those parking spaces be defined with curbing of some nature; anything that will prohibit random parking. Staff would ask for guidance if the Commission would be supportive of a waiver of the surfacing and curbing. Staff's recommendation would be to at minimum require the curbing in the area of the spaces themselves.

Commissioner Slaughter asked if, procedurally, this came with the CUP or the site plan to which Mr. Moore responded that it would come later with the site plan but if there could be a discussion now it would be helpful.

Commissioner Loring said that it is his understanding that the travel way to the space is gravel now with no delineation to which Mr. Moore responded yes it is gravel and not defined at all.

Chairman Wiley said that he would advise those Commissioners who have not seen the site to go and see it if they can. He added that he feels the Commission should follow protocol in terms of the request for the gravel parking request.

Chairman Wiley then called for additional questions.

Chairman Wiley Opened the Public Hearing

Mr. Bob Pinner, 124 E. Clifford Street, spoke to the Commission to express his concerns about the gravel parking and the type of structure to be built. He said that he would hate to see a gravel parking area there because he does not believe that it will not be maintained, rather it will disintegrate in to a gravel yard. He added that he would prefer to see a paved area for parking. He said that he is concerned about a bi-level duplex because it will cause low-end rentals. He said the neighborhood has gone through a lot and it has improved greatly but this seems like a step back and the neighborhood just does not need these types of low-end rentals. He further asked the Commission to consider this thought and said that maybe there could be a single family home or a different kind of duplex but this type does not lend itself for improving the neighborhood. He concluded by thanking the Commission.

Chairman Wiley stated that the Public Hearing will remain open so that the Commission can come back to this case next month.

Chairman Wiley called for questions or discussion from the Commission.

There was discussion about the general maintenance of the gravel parking spaces and whether this will have an effect on the other houses. Concerns were raised about things such as snow removal and general maintenance and upkeep. Mr. Moore said that it is possible that there will be no provisions regulating that and it would be on the property owner to maintain. The Commissioners were in agreement that they would at least like to see curbing/framing of the gravel parking spaces, framing for the travel way, and a schedule for maintenance of the rear parking area to ensure that it stays as attractive as possible.

With no further discussion, Chairman Wiley called for a motion.

*Commissioner Smith moved to table **CU-14-166** until its May 20, 2014, meeting at the applicant's request.*

Commissioner Loring seconded the motion.

Voice vote was taken and the motion passed 5-0.

TA-14-118 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 6, 7, 8, 9, 10, 13, 15.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS, PERMITTED USES, AND USES REQUIRING A CONDITIONAL USE PERMIT FOR ALTERNATIVE FINANCIAL INSTITUTIONS. (Mr. Youmans)

Mr. Grisdale presented the staff report stating that this is a publicly sponsored text amendment that was initiated by Planning Commission at their March 18, 2014, meeting. In April 2010, City Council adopted a zoning text amendment that established provisions for *Short-Term Loan Establishments* with the Zoning Ordinance. Not long after this amendment was adopted, the General Assembly adopted the

Motor Vehicle Title Loan Act which changed some of the operational standards for some of these types of lenders. The proposed text amendment will establish several definitions for *Alternative Financial Institutions, Check Cashing Establishments, Incidental Check Cashing Establishments, Motor Vehicle Title Lenders, and Payday Lenders*, along with eliminating the current definition of *Short-Term Loan Establishment*. He added that the term *Alternative Financial Institutions* will encompass each of these various types of lending establishments. Mr. Grisdale said that this revised text amendment that is before the Commission will also modify the existing by-right and conditional use provisions that presently refer to *Short-Term Loan Establishments* and change the language to AFI's. He concluded by stating that he is available to answer any questions.

Chairman Wiley called for questions from the Commission.

Chairman Wiley Opened the Public Hearing

Chairman Wiley Closed the Public Hearing

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

*Commissioner Slaughter moved that the Planning Commission forward **TA-14-118** as identified in "Draft 2 – 4/15/14" with a favorable motion because the amendment aligns our local Ordinance with revised language in the Code of Virginia.*

Commissioner Smith seconded the motion.

Voice vote was taken and the motion passed 5-0.

OLD BUSINESS:

RZ-14-35 AN ORDINANCE TO REZONE 2.57 ACRES OF LAND AT 1570 COMMERCE STREET (*Map Number 252-01-2*) FROM COMMERCIAL INDUSTRIAL (CM-1) DISTRICT TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) DISTRICT OVERLAY. **(Mr. Youmans)**

Mr. Youmans stated that the applicant has requested to table this item until the May 20, 2014, meeting to allow them more time to prepare the fiscal impact analysis.

Chairman Wiley called for a motion.

*Commissioner Loring moved to further table **RZ-14-35** until the May 20, 2014, meeting to allow the applicant to submit (and for staff to adequately review) the Fiscal Impact Analysis and to prepare floor plans that would help the Commission and City Council evaluate the merits of allowing 3-bedroom units and up to half of the townhouse units to be as narrow as 16 feet wide.*

Commissioner Shickle seconded the motion.

Voice vote was taken and the motion passed 5-0.

NEW BUSINESS:

- A. Resolution to initiate: **SA-14-199** AN ORDINANCE AMENDING SECTIONS 6-5 AND 6-6 OF THE WINCHESTER LAND SUBDIVISION ORDINANCE PERTAINING TO APPROVAL OF MINOR SUBDIVISIONS. **(Mr. Youmans)**

Mr. Youmans stated that this is the first subdivision amendment for some time. Based upon some practices and some restrictions with regard to minor subdivisions, we feel that it is appropriate to consider the amendments on pages 36 and 37 of the packet. The primary emphasis for the change is to allow for minor subdivisions to be approved by the Subdivision Administrator and to be able to record more than one within a twelve month period. We have had several projects come up recently where this has been a potential constraint toward allowing for good planning practice and re-subdivision of properties. As to the comment from the work session pertaining to item 6-5-2, it was suggested that the Administrator shall make a report annually to the Commission of all subdivisions but it was suggested that staff keep the existing language and adhere to that process of reporting to the Commission, in writing, at each regular meeting of the Planning Commission. If the Commission is otherwise amenable to the changes, they could initiate SA-14-199 leaving section 6-5-2 as is with regard to reporting minor subdivisions to the Commission. He added that the other thing he would point out is that the change to section 6-6 is based upon revised language in State Code and is really not debatable so the language that is shown there as a replacement for the 90-day time frame is verbatim from the State Code. He concluded by stating that he is available for any questions.

Chairman Wiley called for questions from the Commission.

Hearing none, Chairman Wiley called for a motion.

Commissioner Slaughter moved to initiate SA-14-199 and leave section 6-5-2 as is. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

- A. Administrative Approval(s): **(Mr. Moore)**
1. **SP-14-194** 234 Weems Ln The Gas Store Greywolfe, Inc.

Mr. Moore explained the request to the Commission.

Hearing no questions, Chairman Wiley called for a motion.

Commissioner Shickle moved to approve. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 5-0.

OTHER DISCUSSION:

Mr. Youmans presented a possible timeline for the John Kerr Elementary School project. He pointed out the May 13 and May 20 sessions for public input on the timeline and added that it is not mandatory in State Code for the Commission to have input sessions ahead and, given how limited this is, it is up to the Commission to have something formal or to have a discussion during a public meeting.

Chairman Wiley said that it would be beneficial to get public input as much as possible because it is important.

Mr. Youmans asked if the Commission wanted to do that during the work session on May 13th or at the regular meeting on May 20th and advertise them as public input sessions.

Commissioner Slaughter said that the Commission should have a public session in the evening to help those who work. Chairman Wiley suggested that staff set up a public meeting in the evening to which Mr. Youmans said yes, like we did for the Corridor Enhancement Districts. Mr. Youmans said that he would suggest that the Commission give some review of specific alternatives as there were two alternatives suggested. He then said that possibly the Commission could look at Thursday evening, May 22nd, to have a public input session. Mr. Youmans further stated that Ron Mislowsky will be working on behalf of the property owner when it comes forward for a rezoning to accommodate the school proposal and alterations to the zoning adjacent to the school site.

Chairman Wiley called for any further discussion. Hearing none, he called for a motion for adjournment.

ADJOURNMENT:

Commissioner Smith moved to adjourn. Commission Slaughter seconded the motion. Voice vote was unanimous and the meeting adjourned at 4:08 p.m.