

## PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, August 19, 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, Vice-Chairman Slaughter, Commissioner Smith, Commissioner Loring, Commissioner McKannan, Commissioner Shickle

**ABSENT:** None

**EX-OFICIO:** Councilor Tagnesi, City Manager Freeman

**FREDERICK CO. LIAISON:** Commissioner Kenney

**STAFF:** Tim Youmans, Aaron Grisdale, Catherine Clayton, Josh Crump

**VISITORS:** Tracy Themak, Dave Massey, Eric Lowman, Lynn Miller

Chairman Wiley opened by recognizing the new City Manager, Mrs. Eden Freeman and new staff member, Josh Crump.

### APPROVAL OF MINUTES:

Chairman Wiley called for additions or corrections to the minutes of July 15, 2014. Hearing none, he called for a motion. Commissioner McKannan moved to approve as submitted. Commissioner Loring seconded the motion. Voice vote was taken and the motion passed 6-0.

### CORRESPONDENCE:

Mr. Youmans advised that CU-14-349 has been withdrawn. He also requested to add three (3) administrative approvals. He then said that the Commissioners have been given an updated Staff Report for CU-14-166 which is under OLD BUSINESS.

### CITIZEN COMMENTS:

None.

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

Commissioner Kenney stated that the Frederick County Planning Commission did not have a meeting on August 6, 2014, however, they did have a joint session with the Board of Supervisors and the Planning Commission on August 12, 2014, to discuss three (3) items that staff felt was necessary to bring them together to review. One item was the Blane property on Cedar Hill and Martinsburg Pike just north of Winchester. It is approximately 100 acres that they want to have included in the sanitation, sewer and water authority. It did receive a favorable vote to be included as it was right on the border of the existing line. The second item was for the revision for the traditional neighborhood development properties on Senseny Road. The applicant wanted to convert to a first floor commercial with the second and third levels as apartments with the option to convert the commercial from residential to commercial or vice versa. This request was denied. The last item was the southern Frederick area development plan that has been active for a few years. This is the development of the urban and

business transportation in the southern end of the County. The Board and the Planning Commission both voted yes to move it forward and to continue that plan. He concluded by stating that the Planning Commission will meet tomorrow, August 20, 2014.

**PUBLIC HEARINGS – New Business:**

**CU-14-331** Request of Joshua Schakola on behalf of Verizon Wireless for a conditional use permit for rooftop telecommunications facilities at 103 East Piccadilly Street (*Map Number 173-01-P-6*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (Mr. Youmans)

Mr. Youmans presented the staff report stating that the applicant is proposing to add 12 new frame-mounted Verizon Wireless antennas and a new 12' by 16' equipment platform with new equipment on the rooftop of the George Washington Hotel. The plan also includes removal of the abandoned Nextel facilities consisting of one (1) antenna skid supporting four (4) antennas, one (1) skid containing two (2) antennas and a cable tray. The applicant intends to install the antennas in an effort to meet demand for streaming and data usage. The antennas will range from 6'-8' tall and from 6"-14.6" wide. The applicant did receive a certificate of appropriateness from the Board of Architectural Review during the April 17, 2014, meeting. He said that condition 1 in the recommendation is no longer relevant as the applicant will not install a generator and that they will use a truck-mounted generator when the need arises. Mr. Youmans concluded by saying that staff recommends forwarding to City Council and that he is available for questions.

*Chairman Wiley called for questions from the Commission.*

Commissioner Shickle asked if they need to add anything about removal of the current equipment to which Mr. Youmans stated that the applicant has made it clear what existing equipment would be removed as part of this application.

**Chairman Wiley Opened the Public Hearing**

Tracy Themak, representative of the applicant, said that Mr. Youmans summoned up the application quite well and that she is available to answer any specific questions the Commission may have.

*Chairman Wiley called for questions from the Commission.*

Commissioner Loring asked when the work would begin once this gets approved to which Ms. Themak responded that once it gets approved and depending on Verizon's construction schedule, they would look to obtain the building permit and probably within six (6) to nine (9) months after that.

**Chairman Wiley Closed the Public Hearing**

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

*Commissioner Loring moved to forward CU-14-331 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 recommended approval is subject to the following conditions:*

1. *Submit an as-built emissions certification after the facility is in operation;*
2. *Removal of the Nextel equipment as noted on the submitted plans;*
3. *The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use; and,*
4. *Submit a bond guaranteeing removal of facilities should the use cease.*

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

**CU-14-388** Request of Gillian Greenfield for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 South Indian Alley (*Map Number 193-01-D-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (Mr. Youmans) - **WITHDRAWN**

**CU-14-415** Request of Dale A. Massey, dba Piccadilly's Public House and Restaurant, for a conditional use permit for entertainment establishment at 121-125 East Piccadilly Street (*Map Number 173-01-P-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (Mr. Gridale)

Mr. Gridale presented the staff report stating that this is a request for a conditional use permit for an entertainment establishment and that the business has previously been operating with a conditional use permit for a nightclub in addition to the restaurant use. He said that following the notification to the applicant that their conditional use permit expiration date was coming soon, the applicant submitted a new CUP application for an Entertainment Establishment. At City Council's October 22, 2013, meeting, a text amendment to the Zoning Ordinance was adopted that changed the provisions of regulating Nightclubs and Entertainment Establishments. In several commercial districts, buildings and related parking facilities that are located at least 200 feet away from residentially zoned parcels allow for Entertainment Establishments by-right; and such uses that are located closer than 200 feet from residentially zoned parcels must obtain a conditional use permit. Several minimal standards were included within the adopted text amendment. This property is located at least 200-feet away from the closest residentially zoned property and therefore any entertainment that occurs internal to the building is permitted by-right as long as it operates in conformance with the General Standards outlined in Section 18-24. However, the Zoning Ordinance requires that any regular entertainment that will be conducted outdoors to obtain a conditional use permit through City Council. He concluded by stating that staff recommends approval and that he is available for questions.

*Chairman Wiley called for question from the Commission.*

Commissioner Loring asked if the current conditional use permit includes the outdoor area to which Mr. Gridale responded yes it does and that they actually have two (2) separate conditional use permits, one initially for the interior and a subsequent one for the exterior; so this is to basically replace the exterior conditional use permit. Commissioner Loring then asked if the outdoor entertainment is just Fridays and Saturdays to which Mr. Gridale responded that it is not specific within the approval here, generally it is based on the operation of the business.

#### **Chairman Wiley Opened the Public Hearing**

Dale Massey, applicant, stated that he is available to answer any questions.

*Chairman Wiley called for questions from the Commission.*

#### **Chairman Wiley Closed the Public Hearing**

*Chairman Wiley called for discussion from the Commission.*

Commissioner Slaughter reiterated that the applicant is just renewing their existing conditional use permit to which Mr. Grisdale said that is correct.

*Chairman Wiley called for additional questions or discussion. Hearing none, he called for a motion.*

*Commissioner McKannan moved to forward CU-14-415 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 recommended approval is subject to the following conditions:*

- 1. No more than three (3) criminal police calls, as determined by the Chief of Police, may be attributable to the establishment within a thirty day continuous period; after which private security shall be required in a manner approved by the Chief of Police;*
- 2. Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 12:00 p.m. the following day, and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day; and,*
- 3. The business shall comply with applicable noise and maximum sound level regulations per Chapter 17 of the Winchester City Code, as amended.*

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

**CU-14-432** Request of Lynn Miller, on behalf of the City of Winchester, for a conditional use permit for a telecommunications tower at 231 East Piccadilly Street (*Map Number 173-01-Q-1*) zoned Central Business (B-1) District. (Mr. Grisdale)

Mr. Grisdale presented the staff report stating that this is a proposal for a new communications tower adjacent to the Timbrook Public Safety Center and that the proposed 150-foot monopole tower will replace an existing 85-foot lattice tower on-site. The present request is a follow-up to the conditional use permit that was submitted and reviewed by Planning Commission and City Council during 2013 as part of the public safety radio communications system upgrade. The City is embarking on replacement of the current communications system, which is antiquated, inadequate and non-compliant with FCC regulations. This current proposal is modified from the previous single site design, with the current proposal involving a dual-site design consisting of a 150-foot monopole tower at the Timbrook Public Safety Center and utilization of the existing infrastructure/elevated water tank on the 700 Jefferson Street site. Mr. Grisdale said that there were two (2) alternate sites that were evaluated; however, neither option was determined feasible as the ability to obtain a favorable ruling from the FAA nor the FCC was doubtful. The existing proposal of 150-foot was determined to be the minimal height necessary following propagation studies to analyze future signal performance. Prior to the consideration of this CUP proposal, the City of Winchester made a variance request with the Board of Zoning Appeals to allow for the proposed height, which exceeds that which is typically permitted within the B-1 district. The normal permitted height within the district is 100-feet and the Board found that a demonstrable hardship existed in this instance and granted the variance. With this approval, the CUP request is now able to move forward for review. He concluded by saying that staff recommends approval and that he is available for questions.

*Chairman Wiley called for questions from the Commission.*

Councilor Tagnesi asked if this requires any guide lines or guide wires for this antenna to which Mr. Gridale said that he would defer to Mr. Miller for response. Mr. Miller responded that this is a free-standing pole.

Commissioner McKannan asked if there would be any lights on the top for air traffic control to which Mr. Miller responded no because it is only a 150-foot maximum structure which is outside the parameters for having any required lighting.

Commissioner Loring then asked if this new pole would be placed next to the existing pole to which Mr. Miller said no, the old antenna will be razed and the new one put in its place. He also said that the equipment that is mounted on the existing pole will be temporarily mounted on the Timbrook Public Safety building.

### **Chairman Wiley Opened the Public Hearing**

Lynn Miller, Emergency Management Coordinator for the City of Winchester, said that Mr. Gridale presented the case very well and that he is available for any questions.

*Chairman Wiley called for questions from the Commission.*

Commissioner Slaughter said that he remembers going through this with the single site solution, there are some questions about redundancy and if that tower went down, will this help with that, having multiple towers. Mr. Miller said yes it will.

Councilor Tagnesi asked if there will be any interruption of service during the construction to which Mr. Miller said no because they will temporarily mount the existing equipment to the Timbrook Public Safety Center building.

Commissioner Loring said that the application indicates that this plan is about \$2 million more than the original plan to which Mr. Miller said that is correct. Commissioner Loring then asked if this is already in the City budget to which Mr. Miller said yes, the allocation is already in the City budget. Commissioner Loring then said that the application also indicates that the City is subject to fines up to \$10,000 per day and he asked if the City is currently being fined. Mr. Miller said no because right now the City is currently working under a waiver from the FCC which is valid until the first of January but that we will have to request an additional extension of that waiver, probably this November, and hope that they will grant the waiver to extend through October of 2015.

### **Chairman Wiley Closed the Public Hearing**

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

*Commissioner Shickle moved to forward CU-14-432 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 recommended approval is subject to the following conditions:*

- 1. Obtaining all required state and federal approvals and the tower design being in conformance with any additional requirements as may be required by such agencies;*

2. *Submit an as-built emissions certification after the facility is in operation; and,*
3. *The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use.*

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

**TA-14-354** AN ORDINANCE TO AMEND SECTION 16.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ALLOWABLE BUILDING HEIGHT IN THE EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT. (Mr. Grisdale)

Mr. Grisdale presented the request and said that this is a privately sponsored text amendment to amend the allowable height provisions within the EIP district to allow for increased building height provided that additional setback is provided. The request provides language that is identical to height provisions for public or semi-public buildings such as a school or church in the LR, MR, HR, HR-1, and RO-1 districts. Similar to the allowable height provisions in the LR, MR, HR, HR-1, and RO-1 districts, this provision mitigates potential impacts from increased building height by requiring structures taller than 35 feet, but no more than 45 feet, to have increased setback of at least one foot per additional foot in building height. He concluded by stating that staff recommends approval and that he is available for questions.

*Chairman Wiley called for questions from the Commission.*

Commissioner Slaughter stated that this is just adding 16.1-7-3 to which Mr. Grisdale said yes, just the one line.

#### **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 Loring moved to forward TA-14-354 to City Council with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing for additional building height for public and semi-public buildings with an increased setback.*

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

#### **PUBLIC HEARINGS – Continued**

**CU-14-349** Request of John and Christine Flood for a conditional use permit for conversion of ground floor nonresidential use to residential use at 10 East Clifford Street (*Map Number 193-01-L-15*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (Mr. Grisdale) -

**WITHDRAWN**

#### **NEW BUSINESS:**

**SV-14-433** AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT. (Mr. Youmans)

Mr. Youmans pointed out that this is not a public hearing item rather it is simply a recommendation in terms of the implications, if any, on long term planning and perhaps the Comprehensive Plan. This will get forwarded to City Council and then goes through a process that is quite lengthy where Council points viewers to go out and look at the request but at the Planning Commission level, the review is really quite limited in terms of whether or not there is any impact in terms of what is recommended in the Comprehensive Plan or in terms of any other impacts in terms of long range planning.

Mr. Youmans then presented the staff report and said that this resubmitted request would eliminate the southernmost segment of Roberts Street as a public street where the applicant owns land abutting the right-of-way on all three sides. The physical travel way would remain to serve the adjoining private property. This request had been approved by City Council on August 12, 2003, but the applicant failed to follow through on the Minor Subdivision to effectuate the conveyance within the one-year time frame spelled out in State Code. The applicant would now like to proceed with the conveyance. The applicant owns all of the private property served by this dead-end section of Roberts Street and there is no public purpose in retaining public ownership of this right-of-way and the roadway improvements within the right-of-way. The applicant had previously secured rezoning of the property fronting along the east side of the subject section of Roberts Street and a site plan for a commercial development with right-in/right-out access from/to westbound W. Jubal Early Drive is awaiting approval. The vacation should be conditioned upon the applicant assembling the vacated right-of-way in with the adjacent private property. City Council should confirm whether or not the sale price of \$2.50 per square foot will be set for this 2014 ordinance. He concluded by stating that staff recommends forwarding and that he is available for questions.

*Chairman Wiley called for questions from the Commission.*

Commissioner Loring asked if staff has received any input or feedback from adjacent property owners to which Mr. Youmans responded no and that he does not believe that we ever have because everyone knows that this extends to a non-descript point. Commissioner Loring then asked about the sale price of \$2.50 per square foot that was set 11 years ago and whether that price is still a good price. Mr. Youmans said that his only question would be whether City Council would go with a lower price rather than a higher price if it facilitates economic development in this area. He added that he does not think that they will change it.

Commissioner McKannan said to clarify, the easement stays there so that the access from Roberts Street to this site, east and west, will stay there. Mr. Youmans said that there are easements that they are establishing through the site and there are easements for the benefit of City National Bank and the utilities.

Commissioner Slaughter said that by vacating this, they would not be able to close the access to the current site to which Mr. Youmans said that although it is possible that they could do that; however, before that could happen, they would have to come back for a site plan revision and staff would not be supportive of that nor does he think the applicant would ever want to do that.

*Chairman Wiley called for additional questions or discussion. Hearing none, he called for a motion.*

*Commissioner Smith moved to forward SV-14-433 to City Council recommending approval because there is no long-term need for the public right-of-way. The approval is subject to establishing necessary*

*easements and subject to approval and recordation of a Minor Subdivision assembling the vacated right-of-way in with the adjoining property.*

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

**TA-14-477** RESOLUTION INITIATING TA-14-477, AN ORDINANCE TO AMEND AND REENCT ARTICLES 1, 18, AND 19 PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES. (Mr. Grisdale)

Mr. Grisdale said that this is a staff request to have the Planning Commission initiate this text amendment. Basically after going through some review of State Code and our existing Ordinance, there are a few areas where either this past year in General Assembly there were some changes or whether it was some previous General Assemblies, there are some changes that require us to make those in our local Ordinance. There are four (4) areas that this Ordinance is addressing. One is a minor word clarification within the definition of group home. That was due to a recent act of the General Assembly this past session. Provisions for temporary health care structures, this is a requirement that all localities have to adopt within their Zoning Ordinance. It was adopted a few years ago and the City is playing "catch up" getting this in to our Ordinance. The third is procedures for family day homes. This was due to an act of the General Assembly from its most recent session. Basically, when someone is coming to have a family day home or a home day care center for more than five (5) children, prior to the Zoning Administrator reviewing and granting approval for that, there are notification requirements to all adjacent property owners prior to making that decision. The amendment also establishes some appeal provisions to City Council should the Zoning Administrator deny the request. Lastly, this just brings our Ordinance up to State Code for the expiration time lines for site plans to ensure that they are consistent. This will come back to the Planning Commission should they initiate it this month for the public hearing at next month's Planning Commission meeting.

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

*Commissioner Loring moved to initiate TA-14-477. Commissioner Slaughter seconded the motion. Voice vote was taken and the motion to initiate passed 6-0.*

## **OLD BUSINESS**

**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. Youmans)

Mr. Youmans presented the updated staff report and said that this request is a re-approval of an expired conditional use permit for a two-family dwelling on the subject property. The applicant originally applied for a conditional use permit (CUP) for a two-family dwelling to replace a vacant, deteriorated single family dwelling located on the subject property in 2009. That application was recommended for approval by the Planning Commission and subsequently approved by City Council on April 13, 2010. The existing structure was subsequently demolished; however, the applicant did not proceed with construction. The CUP expired because the use did not commence within one (1) year of approval. The design elements of the proposal remain unchanged from the original proposal and the applicant previously applied for and received administrative modifications of two dimensional standards: lot width

and side yard. These modifications remain in place. The Board of Architectural Review previously granted a Certificate of Appropriateness (COA) for the design of the new structure; however, that COA expired one (1) year from its issuance. The applicant will need to reapply for a new COA. The original approval includes three (3) conditions; however, the first two conditions are no longer necessary. Additionally, the alignment of the Green Circle Trail phase in this area has since been finalized and terminates south of the subject property, so an easement is no longer necessary. The site plan depicts the provision of two (2) required off-street parking spaces accessed from an unrecorded ingress/egress toward the rear of the property. The plan calls for gravel surfacing of the spaces. Staff requests input from the Commission as to whether a waiver of surfacing and curbing requirements (as depicted) for the spaces and travel way is supported. The Commission also 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 look for this to be included in the related site plan.

A question arose in the April Planning Commission work session as to whether access could be guaranteed if the ingress/egress is unrecorded. The applicant consulted with an attorney, doing further property research, and, most recently, had been in negotiations with an adjoining owner to obtain a recorded easement. The Commission tabled the application at its April 15, May 20, June 17, and July 15 meetings at the applicant's request. The applicant advised the City that the negotiations to secure the easement were unsuccessful. The CUP action was further tabled awaiting approval of a variance from the BZA.

Staff met with the applicant recently and determined that the project could move forward without BZA approval of a variance for off-street parking if the owner could secure an agreement for off-site parking within the 700-foot maximum distance established in the Zoning Ordinance. The owner has an existing parking lot behind townhouse units located approximately 300 feet to the north on the same (east) side of S. Kent Street which serves residences located in the 100% parking exempt district. Based upon the owner's willingness to encumber two (2) of those spaces to serve the required parking for the two-family unit at 314 S. Kent Street, the CUP can now move forward without need for a variance. The BZA request was thus withdrawn and the applicant would like to have a recommendation from the Planning Commission.

*Chairman Wiley called for questions from the Commission.*

Commissioner McKannan reiterated that the adjacent property owner would not enter into any type of agreement to which Mr. Youmans responded that the applicant tried for quite a few months to secure one but was unsuccessful. Commissioner McKannan then asked if there is confidence that the adjoining property owner is not going to obstruct the access to which Mr. Youmans said he would defer to Mr. Lowman, applicant, for comment.

Commissioner Shickle said that she recalls that there was discussion regarding some type of access from the street along the side of the property to which Mr. Youmans said that the comment was to ensure that there would be a sidewalk leading from the back door out to South Kent Street. Commissioner Shickle then asked for some history on the distances and where they come from. Mr. Youmans said that are in Article 18-6, specifically 18-6-3.1, of the Zoning Ordinance, that was amended to actually become more lenient in terms of these off-street parking agreements wherein if someone has a surplus of parking, they can make that available to someone else who cannot provide the sufficient quantity of off-street parking spaces. It has to be an agreement and specifically it has to be ensured either through a deed that is recorded or an easement or a lease that is in place for at least 25 years. As long as they do

that, it is acceptable in lieu of providing the off-street parking. He added that there are a number of developments in the City that made use of the more stringent language that said that it had to be within 300-feet but it is now established at a 700 foot maximum or 1,200 linear foot distance. Commissioner Shickle then asked if Mr. Youmans had a sense of those that are approved and actually use that parking as she has a lot of concerns about it because she said that she is not sure that the tenants will use those two (2) spots. Mr. Youmans said that this is a debate that was had back when the provision was first built in to the Ordinance and then there was a certain amount of debate when the City went to the 1,200 linear feet. This does reflect Council's interest in trying to encourage more residential development downtown without too many impediments.

Chairman Wiley said that in terms of where the Commission was the last time, he said that they were in public hearing and asked if the public hearing was opened while the case was tabled to which Mr. Youmans said that it was his understanding that the public hearing was closed. He asked Ms. Clayton if she recalled and she responded that there was no direct verbiage in the last motion. Mr. Youmans then said that he was thinking that the Commission had closed the public hearing and were awaiting the outcome of the BZA before the Commission made their recommendation.

Commissioner Loring reiterated that the applicant still intends to build the two (2) spaces behind the unit so they could still be able to access it to which Mr. Youmans said yes, that is what he understands. Mr. Youmans also said that in order for the City to approve this duplex, we have to have evidence that there will be two (2) parking spaces and physically they have them there and there is no reason to believe that it will be physically barricaded.

Commissioner Slaughter then asked if there is a better way to put in the conditions that they will build off-street parking and the egress around the building or does the site plan process offer enough to ensure that this will be done. Mr. Youmans said that this is something that staff would insist upon with the site plan. This is the official exhibit that they provided with the conditional use permit and so the draft motion does say to approve the use as proposed, so if they do not follow this proposal, then it would not be consistent with the recommendation that Commission is forwarding to City Council. Commissioner Shickle said if the applicant installs the two (2) parking spaces as proposed but the adjacent property owner bars access that does not mean that the applicant is in violation of what they have submitted. Commissioner Loring then reiterated that the applicant is going to provide the two (2) spaces behind the unit and the spaces in the other parking area. Mr. Youmans responded that legally they meet the requirements of the spaces in the parking lot at the townhouses just to the north. Mr. Youmans further advised that concerned residents will have an opportunity for public comment at the City Council level and that adjoining property owners will receive a letter indicating such. Mr. Grisdale said that he reached out to the individuals who live on Cecil Street and left a voice mail indicating that this case was coming back before the Planning Commission today and that Oakcrest had an alternate proposal for their off-street parking issues. He added that the resident in turn left a voice mail for Mr. Grisdale thanking him for the call and to advise that his issues were addressed. Mr. Youmans then stated that it is a by-right provision, it is not discretionary in terms of the City may permit it. If the person meets the requirements, they are allowed by Code to do it.

*Chairman Wiley called for additional questions or discussion from the Commission. He then asked if Mr. Lowman, Oakcrest Properties, wished to speak.*

Mr. Lowman stated that the easement has been in place for decades and that the adjacent property owner has given no indication that he would sell the property or no indication that he would vacate the

easement that is there right now. He said that the primary concern for the adjacent property owner not giving a recorded easement is that he is concerned that it will generate other aspects going north and he does not wish to have to go through that whole process. He said that they anticipate being able to use it as long as they can.

*Chairman Wiley thanked Mr. Lowman for the clarification. He then called for additional questions or discussion from the Commission. Hearing none, he called for a motion.*

Commissioner Slaughter asked if there are any other solutions that would work. Commissioner Shickle then said that they applicant has done everything that they possibly can in that the City has provisions in place and they have met them, she said that she just wants the Commission to be conscious. Mr. Youmans said that he can report back to the Planning Commission after this gets to City Council at work session if they express similar positions.

*Chairman Wiley called for a motion.*

*Commissioner Shickle moved to forward CU-14-166 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 recommended approval is subject to the following conditions:*

- 1. Approval of necessary lease or easement obligating the two (2) parking spaces in the off-street parking lot behind 208-220 S. Kent Street to serve the two-family use at 314 S. Kent Street; and,*
- 2. Staff review and approval of the related site plan.*

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

## **OTHER BUSINESS**

### **Administrative Approval(s) (Mr. Youmans)**

- a. SP-14-480**      1359 & 1365 Berryville Avenue      boundary line adjustment  
*Commissioner Loring moved to approve. Commissioner McKannan seconded the motion. Voice vote was taken and the motion passed 6-0.*
  
- b. SP-14-494**      621 Atwell Avenue      convert parking spaces  
*Commissioner Loring moved to approve. Commissioner Slaughter seconded the motion. Voice vote was taken and the motion passed 6-0.*
  
- c. SP-14-441**      400 Campus Boulevard      new cancer center  
*Commissioner Loring moved to approve. Commission Shickle seconded the motion. Voice vote was taken and the motion passed 6-0.*

## **AJOURN**

With no further business before the Commission, the meeting adjourned at 4:25 p.m.