

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, January 15, 2008 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Planning Commissioners: Chairman Masters and Commissioners Adams, Weber, Shore, Talley, Willingham, and Sublett

Ex Officio & Staff: Youmans, Moore, Walsh, Griffin, Lewis, Diem, and City Manager Godfrey

Frederick County Liaison: Absent

ABSENT: None

VISITORS: Lynn Koerner, Mark Smith, Tim Mayfield, David Ganse, Donna Carpenter, Betty Friant and Sarah Rinker

CALL TO ORDER: Tim Youmans called the meeting to order at 3:00pm.

ELECTION OF OFFICERS: Mr. Weber nominated Mrs. Susan Masters as the Chairman of the Planning Commission. The nomination was seconded by Mr. Shore and unanimously approved. Mr. Weber nominated Mr. Adams as the Vice-Chairman of the Planning Commission. The nomination was seconded by Mr. Shore and unanimously approved.

APPROVAL OF MINUTES: Mr. Weber, seconded by Mr. Talley, moved to approve the minutes of the December 18, 2007 meeting as presented. The motion passed on a vote of 7-0-0.

CORRESPONDENCE

There was a revised agenda including:

1. Staff reports for items 2a and 2b.
2. Item 4 under New Business addition administrative authorizations on site plans.
3. Item 4c an exception to a subdivision ordinance pertaining to a re-subdivision of property near the George Washington Hotel.
4. Item 4d consultation of waivers for project on Cedar Creek Grade.

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

None

SPECIAL GUEST

Sarah Rinker, an intern working with Mr. Youmans in Planning Dept. gave a summation of a presentation that she gave at her High School last Wed. night based on the time she spent with the Planning Dept.

Mr. Youmans expressed what a joy it had been to work with Ms. Rinker. He felt that its been a benefit to the staff as well as the Planning Commission to have her assistance in updating the Comprehensive Plan.

Ms. Rinker explained that she based her project on public worksessions and expanded upon that by having a worksession with her high school peers. She asked that the Commission keep in mind that these answers were given by people high school age that all live in the County.

All the topics included in the presentation included Transportation, Cultural Amenities, Jim Barnett Park, and a Walkable Community. She started out explaining what the City is like and then explained goals listed in the City's Comprehensive Plan. She asked her peers what they thought and she got their comments.

The most reoccurring response regarding Transportation was the there was a lack of free parking in the downtown area, which deters the teenagers from coming into the city.

The responses regarding Cultural Amenities in the downtown area included, again the lack of free parking, they didn't like the stores there, and they don't feel safe at night. There were some favorable responses with regard to the restaurants.

Ms. Rinker explained that she chose Jim Barnett Park because it was a fixture in the area. She asked her peers if it could be improved in any way. Some of the responses included safety and that there is no room for addition.

A big part of Ms. Rinker discussion was in regard to the community being "walkable". Currently the community is dependent on their automobiles. Her peers comments included the lack of bike paths or negative responses about the ones already in place due to having to cross busy intersections, and that the city was too large with too many rural areas in between.

Ms. Rinker explained that she realized with the responses that her peers didn't understand the extent of the city plan. The time limit given to her didn't afford her the opportunity to go into detail. She stated that this same sort of study should be done with the Handley students because the changes that are to be made will affect them the most.

Mr. Youmans stated that even though the commission may not like some of the responses Ms. Rinker received it helps to frame the citizen worksessions that the consultant will be working with the city on and it shows that the younger population does have an opinion; ways just need to be found to bring them into light.

Mr. Adams stated that he has been working with the Gifted and Independent Study Program for Frederick County about 5 years. He would very much like to see Handley participate.

Chairman Masters thanked Ms. Rinker for coming.

PUBLIC HEARINGS

CU-07-13 Request of Shenandoah Mobile Company for a Conditional Use Permit to construct a wireless communications tower at 1208 Berryville Ave (*Section 177, Double Circle 2, Lot 13*) zoned Highway Commercial, B-2 District.

Will Moore presented the plans for Conditional Use Permit (CUP) approval to erect an 80' tall, monopole-type cellular tower to be located at the NE corner of the building housing the Handy Mart store/filling station, Subway restaurant, and a small hair salon at 1208 Berryville Ave. The antennae are proposed to be enclosed within the pole.

Mr. Moore noted the applicant has addressed all requirements for a proposed tower. These include:

- 1) All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists.*
- 2) The applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.*
- 3) The tower height is no more than the minimum to accomplish required coverage.*
- 4) The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable.*
- 5) The proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of the Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility.*
- 6) The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or standard issued by the Federal Government subsequent to the adoption of this Ordinance.*

Mr. Moore showed an exhibit showing the pole doubling as a flag pole to be more aesthetically pleasing. He explained the option to bond equipment to ensure removal of all equipment within ninety (90) days once the equipment is no longer in active use.

Lynn Koerner, 3126 S. Ox Rd Edinburg, representative for Shentel stated that he was available for any questions.

Chairman Masters opened the public hearing and asked if there was anyone wishing to speak in reference to the request. Seeing none, Chairman Masters closed the public hearing.

Mr. Shore asked who would provide maintenance for the flag.

Mr. Koerner explained that the property owner will be responsible for taking down the flag in the event of bad weather or anything else involving the maintenance, but it would be Shentel's responsibility to provide a new flag whenever requested by the property owner.

Mr. Adams asked if the flag would be lit.

Mr. Weber asked where the lights would be.

Mr. Koerner explained that a light would be on the corner of the screened area shining up toward the flag.

Mr. Adams stated that the flag would be inspirational for the community. He felt that the bond would not be necessary because the tower could be kept as a flag pole in the event that Shentel does not renew their lease at any point.

Mr. Talley asked if the applicant was opposed to the bonding and also, if in the event of Shentel discontinuing the use of the pole, who would provide the flag.

Chairman Masters explained that Shentel has a lease agreement for the pole, so as long as the lease was in place they would need to continue providing the flag.

Mr. Koerner expanded on this by saying that if the lease, which is a 40 yr lease, was terminated Shentel would more than likely tear-down the tower.

Mr Adams seconded by Mr. Weber, moved to approve CU-07-13 based upon a finding that the proposal as submitted will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposal; will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood; and that the applicant has demonstrated compliance with the provisions of Section 18-2-1.2 for new cell tower proposals .This approval is subject to staff review and approval of the site plan.

The motion was then unanimously approved by voice-vote. 7-0-0

RZ-07-13 AN ORDINANCE TO CONVENTIONALLY REZONE 0.5107 ACRES OF LAND FROM COMMERCIAL INDUSTRIAL, CM-1 DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 402 NORTH CAMERON STREET (Section 173, Double Circle 1, Block W, Lot 3) AND 130 BAKER STREET (Section 173, Double Circle 1, Block W, Lots 1 and 2), ZONED COMMERCIAL INDUSTRIAL, CM-1 DISTRICT.

Tim Youmans presented the request to rezone from CM-1 to B-1 which has been changed from a conventional request without proffers, to a conditional rezoning with proffers for multiple parcels that together currently house the Winchester Feed & Seed Company at 402 N. Cameron St. The parcel known as 130 Baker St is partially encumbered by the existing structure which is intended for demolition pending approval of the rezoning. The intended use for the building is an intervention center for domestic and sexual violence. Slides were shown depicting what the building will look like. The front resembles historic architecture similar to the downtown area. The rear is more modern with a flat roof.

Mr. Adams recused himself from the discussion.

Mark Smith, Greenway Engineering stated he is in full agreement with Mr. Youmans and was available for questions.

Chairman Masters opened the public hearing and asked if there was anyone wishing to speak in reference to the request. Seeing none, Chairman Masters closed the public hearing.

Mr. Tally asked if there were any changes to the proposed building, would a new site plan be submitted.

Mr. Youmans said that it would, but before that can even take place the zoning change would have to take affect.

Mr. Talley commented on the fact that the proposed building only has 15 parking spaces but 16 employees.

Mr. Sublett stated his concerns with consistency with size and appearance within the city. He continued by saying that it may be more costly but that it may be beneficial to have the back of the building mimic the front. He gave an example of the CVS on Amherst St, and how the board took great consideration on what would be seen from all sides.

Chairman Masters stated that the fact that the building isn't in the Historic District limits the city's ability to control what it looks like. She explained the CVS was in an adopted Corridor Enhancement.

Mr. Youmans continued the discussion by pointing out that as long as Cameron St stays one-way the back of the proposed building is blocked from view by the surrounding buildings. Only if the road becomes two-way would the concerns be an issue.

Mr. Talley expressed his opinion by saying this is just a rezoning case, that what we are looking at is just a nice picture but what could come could be different to a degree.

Mr. Shore stated that with this being a non-profit building they have done a fantastic job considering their resources, if it would be a bank or something like it maybe it would be different. He explained the use of the area is appropriate because what is developing is a social

services corridor with Health Services being across the street and Habitat for Humanity being around the corner. Also the projected Social Services uses in development.

Chairman Masters asked that David Ganse the architect step forward.

Mr. Ganse explained that he tried to communicate historic architecture but to bring it up to modern times. The reason for the flat roof in the back is for equipment since there isn't enough room on the ground.

Chairman Masters asked if there are windows in the back.

Mr. Ganse stated that there are and that they are similar to the ones on the front. He apologized for not having a drawing depicting the back of the building.

Mr. Shore, seconded by Mr. Talley to approve RZ-07-13 because the proposed B-1 zoning, as conditioned per the January 11, 2008 Proffer Statement, adequately addresses impacts, supports redevelopment, and represents better planning than maintaining the existing CM-1 zoning.

Chairman Masters asked if there were any questions on the motion.

Mr. Weber asked Mr. Youmans if there was anything to prevent the structure from changing into something different.

Mr. Youmans explained that if the rezoning is approved, any building that was outside the general conformity would have to go through a proffer revision. He continued to say that even though there is an intended use, there is nothing that requires that the building stay in a non-profit use. However, B-1 zoning would prevent someone from coming in and converting the whole thing into an apartment building.

The motion was then unanimously approved by voice-vote. 6-0-1 (Mr. Adams abstaining)

OLD BUSINESS

TA-07-08 AN ORDINANCE TO AMEND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ACCESSORY USES AND STRUCTURES.

Mr. Diem presented the revised draft of the amendment, stating that it is staff-initiated; and, is the result of a presumed need within the Historic Winchester (HW) District to allow for greater flexibility in the design and scale of accessory structures. The amendment would also include the current definition of Accessory Structure and Accessory Use.

Staff recognizes that homes constructed in or before 1930 would likely have carriage houses exceeding the maximum 12' requirement. This amendment would allow heights to accessory structures to extend to a maximum of 18' in height.

Mr. Sublett thanked Mr. Diem for taking the boards suggestions into consideration. He asked if there is anything that may suggest the request to expand this amendment to houses built in this time period outside the historic district.

Mr. Diem explained that it is possible that in the future it may be extended to properties immediately adjacent to the subject property and separated by an alley.

*Mr. Adams, seconded by Mr. Talley to approve TA-07-08 as modified.
The motion was then unanimously approved by voice-vote.*

NEW BUSINESS

- A. **TA-07-06** Motion to Initiate - AN ORDINANCE TO AMEND ARTICLE 18, GENERAL PROVISIONS, OF THE WINCHESTER ZONING ORDINANCE, PERTAINING TO THE USE AND STORAGE OF RECREATIONAL VEHICLES AND EQUIPMENT, AND PERTAINING TO OFF-STREET PARKING REQUIREMENTS ON RESIDENTIALLY USED AND OCCUPIED PROPERTIES

Mr. Diem presented the staff initiated amendment. Pertaining to maintaining the greenery he gave examples of issues including situations where there is an inoperable vehicle on a property that has to be moved to make room for the operable vehicle. The inoperable vehicle would typical be placed on the grass. This situation includes the parking of recreational vehicles. This amendment outlines where parking should occur in these situations. It also includes the prevention of using recreational vehicles as permanent/transient housing.

Mr. Sublett expressed that he likes what is trying to be accomplished. He spoke specifically about 18-5-2a. He felt that this amendment casts a broad net that hard-working middle class families would get caught in. He expanded by saying that a bad message would be sent to the citizens if they are told where on their property they can park there recreational vehicle after they are paying a rather high tax just to own it in the city. He stated that there is no control over how many cars someone owns just because the street they live on is narrow.

Chairman Masters stated that Mr. Sublett has made a valid point.

Mr. Adams asked Mr. Sublett if he agreed that it be parked on an improved surface but just not where they should park it in regard to the front and side-yard.

Mr. Sublett said that he did, that there are some streets that don't have a side-yard. He continued by saying that most tenants that own a recreational vehicle are good tenants, the idea is to prevent bad tenants from parking their vehicles on their lawns.

Mr. Adams asked if Mr. Sublet also felt the same way about 18-5-2b because it is essentially saying the same thing.

Mr. Sublett stated that the difference is if they have their own driveway. He felt that if they do they should be able to decide what they want to park their vehicles.

Mr. Diem explained that one of the concerns that were brought up was the larger motor homes and travel trailers being parked on the street and the fact that they create serious visual obstructions. He felt that if the commission was going to look at modifying the amendment further that this point should be taken into consideration.

Chairman Masters stated that maybe this should be referred back to Mr. Diem to take into consideration the suggestions that have been made.

Mr. Adams agreed that this would be best, that instead of telling someone where they can park maybe state that it just needs to be on an improved surface.

Mr. Moore stated that there is nothing that would prevent the initiation of the amendment because it would be back for discussion and that could be in a newly drafted form.

Mr. Diem stated that there is no sense of urgency to initiate this amendment.

Mr. Adams stated that he is hesitant to initiate at this point because there are going to be changes.

Chairman Masters stated that there wouldn't be an initiation that the commission would wait for the revised draft.

B. Administrative Authorizations

- 1) **SP-07-65** PHR+A 1460 University Dr Smith Library Parking
At the January 8, 2008 Work Session, Mr. Weber, seconded by Mr. Shore, moved to authorize administrative approval of SP-07-65. The motion passed on a vote of 6-0-0.
- 2) **SP-07-50** Painter-Lewis 2711-2729 Valley Ave Stutzman Body Shop
Mr. Sublett recused himself from the discussion.
Mr. Adams, seconded by Mr. Weber moved to table SP-07-50 until evidence is provided showing that the wall mounted lighting is sufficient. The motion passed on a vote 5-1-1 (Willingham objected).
- 3) **SP-08-01** Painter-Lewis 305 E Piccadilly St Timbrook Park/Office Parking
Mr. Willingham, seconded by Mr. Talley moved to approve SP-08-01 as modified. The motion passed on a vote of 6-0-0. The modification was for the alternative parking layout encumbering less yard area behind the building.

C. Motion for a written recommendation in regard to Exception per Section 8-1, of the Land Subdivision Ordinance, regarding minor subdivision approval.

Mr. Willingham, seconded by Mr. Weber moved to recommend forwarding the exception to City Council for approval. The motion was passed on a vote of 6-0-0.

- D. **SP-06-41-** The Landing at Park Heights – consultation regarding waivers of 3 foot separation requirements.

The Commission was consulted.

OTHER DISCUSSION

Mr. Youmans gave the dates for the upcoming Comprehensive Plan Worksessions.

January 22, 2008 at 7:00pm in the Exhibit Hall

January 29, 2008 at 7:30am in Council Chambers

February 5, 2008 at 7:00pm in Council Chambers

ADJOURN

With no further business to discuss, the meeting was adjourned at 5:28pm.

Susan Masters, Chairman