

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, September 20, 2011 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

CALL TO ORDER: Chairman Adams called the meeting to order at 3:00 pm.

PRESENT: Chairman Nate Adams, Vice-Chairman Dave Shore, and Commissioners Jennifer Beatley and Kevin Talley (4)

ABSENT: Commissioners Kevin McKannan, Stephen Slaughter and William Wiley (3)

EX-OFICIO: Interim City Manager Craig Gerhart

STAFF: Planning Director Tim Youmans, Planner Will Moore, Zoning & Inspections Administrator Vince Diem, and Secretary Paula Le Duigou

VISITORS: Lynn Elliot, Sandy Webster, Janice Hall, Lorie Sterling, Tim Painter, Mike Bryan

APPROVAL OF MINUTES

Commissioner Talley moved to approve the minutes of the August 16, 2011 meeting as presented. The motion was seconded by Vice-Chairman Shore.

Motion passed 4-0.

CORRESPONDENCE

Mr. Youmans presented an addendum packet that included a staff report for agenda item 3A, the request for subdivision exceptions for Green Frog and Shenandoah Valley Electric Cooperative.

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

Chairman Adams stated that, via email, Mr. Mohn stated he would be unable to attend today's meeting. He then read the following statement from Mr. Mohn's email.

I am unable to attend this afternoon's PC meeting due to an unexpected work-related obligation. With regard to notable events/initiatives, the Frederick County PC will be hosting a public introduction/kick-off meeting for the Senseny/Eastern Frederick Urban Area planning initiative tonight at 7 PM at Greenwood Mill Elementary School (281 Channing Drive). The study area consists of approximately 16,000 acres extending east from the City of Winchester/I-81 to the Clarke County line, with the north and south boundaries formed by Red Bud Run and Opequon Creek, respectively. The study area includes the Route 7 and Route 50 East corridors in their entirety, as well as a significant portion of the Route 522 South corridor. We would welcome members of the Winchester PC and staff to attend this evening's meeting to learn more about this significant land use planning effort. A copy of the study area map is attached for your reference.

PUBLIC HEARING

- A. CU-11-520** Request of Phazz One Ministries, Inc. for a conditional use permit for a private community center at 501 South Cameron Street (*Map Number 213-01-A-17*) zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

Mr. Diem stated that the applicant is requesting a Conditional Use Permit to operate a private community center in conjunction with an existing ministry or religious organization at 501 South Cameron Street. The subject property is within the HW overlay district and is zoned RB-1. It includes two separately platted parcels located on the north and south sides of East Leicester Street, adjacent to the intersection of South Cameron Street. The portion of property located on the northern side of East Leicester Street consists of an improved off-street parking lot and the property situated on the southern side of East Leicester is improved with a commercial structure, previously occupied by a non-profit consignment shop/retail establishment. The surrounding properties are similarly zoned RB-1, with a mixture of uses including a tattoo establishment, a private fraternal lodge, a group home, and an array of other residential uses

Within the applicant's letter of intent, dated August 3, 2011, a comprehensive list of proposed services and activities is provided. Specifically, the services will *include educational support services for suspended students and those most at risk for dropping out of school; household and financial management classes to help individuals and families learn to live within their means, become debt-free, and move beyond their current situation; short-term financial assistance and tenant-based rental assistance for individuals and families enrolled in [their] supportive mentoring/personal development programs; job training and placement assistance for youth and adults; prenatal and postpartum support for teen mothers and babies; on-site meals and food pantry as well as a mobile soup kitchen that delivers meals to local residents; health services for uninsured children; and regular family-focused community events/activities to encourage the development of health family and community relationships.* Phazz One Ministries also intends to utilize the facility as a venue for weddings, reunions, birthday parties, business meetings, corporate gatherings, and a variety of community activities.

Regarding the specific requirements of Section 18-2-1, Winchester Zoning Ordinance, the applicant indicates that their array of uses will not adversely affect the health, safety, or welfare of their neighbors, nor be detrimental to the welfare of the general public or injurious to the property or improvements in the neighborhood. They propose that any additional traffic on Cameron or Leicester Streets will be minimal and parking for Phazz One Ministries' participants and staff will be in the existing secured lot across the street from the building. The facility is proposing to have regular operating hours, which were generally defined as nine to five p.m. at the work session last week, and at no time will the facility be used to house staff, clients or guests in an overnight or residential capacity. They further express that the establishment will adhere to the City guidelines regarding lights, noise, security, crowd control, special events permits, etc. Phazz One Ministries will not be a place where youth and/or young adults "hang out" together.

In response to the applicant's proposal, the Zoning & Inspections Administrator has reviewed both the RB-1 Statement of Intent, as well as, the recently adopted and updated Comprehensive Plan. The RB-1 Statement of Intent reads as follows:

This district is intended to promote and preserve the urban mixed use residential neighborhood character of the area by permitting a mix of small businesses, services, and a variety of residential dwelling types. It is intended to encourage an interesting urban

environment serving as a transition between the central business district and residential areas.

One of the first major steps in the City's Comprehensive Plan update process was to conduct four public input meetings during June and July of 2008. At the input sessions, groups of citizens conducted a Strengths-Weaknesses-Opportunities-&-Threats (SWOT) Analysis for the future of the City. Following the SWOT Analysis, participants joined small breakout groups to conduct mapping exercises in which they marked up base maps to identify features to preserve and others to change, add, or improve.

Some common themes and ideas emerged during the SWOT exercises included the concern about the City becoming a magnet for dependent populations. The same concern was expressed with regards to the city's economic sustainability overview.

City Council identified the following goal for citywide health and human services:

Ensure a higher level of social sustainability by providing basic health and human service resources that promote greater economic independence and healthy lives for a diverse and changing population.

Council also stated five more specific objectives:

- 1) Assist persons and families overcome poverty, abuse and neglect.
- 2) Stem the growing rate of teen pregnancy in Winchester.
- 3) Ensure that the health and human needs of the local population are adequately served.
- 4) Facilitate aging in place among older populations while providing opportunities and places for civic engagement and social life.
- 5) Promote a regional fair-share approach to meeting human service needs in the interest of social sustainability.

Mr. Diem stated that in regard to those objectives, the applicant in their letter of intent, cover a large number of those types of services. The question that remains is with respect to objective number 5, whether or not the City is meeting its regional fair share of these services or if it continues to isolate the City of Winchester as a chief shareholder in hosting social service agencies.

The geographic planning area in which the subject property is located is identified as the Old Town/North Central (NC & OT) planning area. Specifically, the area is defined as properties located west of CSX tracks, south of Wyck St., east of abandoned tracks and Stewart St., and north of Gerrard St, Handley Blvd., and Millwood Ave.

Within that planning area, proposed land uses within the Comprehensive Plan are intended to encourage locating public land uses in locations that enhance the livability of the City and facilitate the placement of institutional uses in locations that support the social, spiritual, and health needs of the community.

Two actions were identified.

1. Revise the Zoning Ordinance to limit uses serving dependent populations where the uses might have a negative impact on residences or businesses in the area, while preserving a city-wide network of social services.

2. Relocate the detox and court services from the old jail to less disruptive sites. Reuse the historic building for a public or private use more compatible with the area. The proposed use of a private community center is very similar in a social services context to that which was relocated a block north of the subject property at the former site of the aforementioned detox and court services facility.

Mr. Diem stated that the first two statements of the second action reflect his concern.

Reduce the conversion of taxable property to non-taxable land uses.

Action: Discontinue the practice, where legally allowable, of granting real estate tax exemption or other public financial incentives/waivers to non-profit organizations which relocate to or expand operations in the Old Town area to the detriment of established City goals and objectives.

Finally, the character map depicted in the Future Development chapter of the Comprehensive Plan identifies the subject property, including the commercial structure and adjacent off-street parking area, as a redevelopment site.

Mr. Diem referred to aerial photographs of the subject area and that they would use this building as a community center with the exception of onsite meal delivery that they will be offering. He stated that during the Planning Commission work session it was disclosed that the site would not be used as a hotel, or provide overnight lodging.

Mr. Diem then referred to floor plan and stated that it did not appear that there would be many changes. He stated that the layout allowed small group, class training and/or counseling for clients. It appeared that the mezzanine would have limited use.

Mr. Diem stated that during the last work session the representative of Phazz One stated that the hours of operation would generally be nine a.m. to five p.m. In light of the work session discussion, under the portion of staff report that includes a favorable motion, Mr. Diem proposed that if the Commission were inclined to recommend an approval to City Council, that the hours of operation could be eight a.m. to six p.m.

Mr. Diem also felt that other issues that could be addressed were pertaining to the regional fair share approach as well as the possible detriment to the surrounding neighborhood, as the applicant's intention is to serve meals on site. Mr. Diem stated that over the weekend he saw a sidewalk sign advertising breakfast, lunch and dinner being served, which appears to be in contrast with the use the applicant is applying for, nor has been approved by City Council.

Chairman Adams opened the Public Hearing.

Lynn Elliot, of Phazz One Ministries, stated that the sidewalk sign that was in front of their building was to advertise a one time yard sale. It had been reused from a previous site and it may have referred to meals being served in reference to an old event.

Mr. Elliott said that they are aware of the City's concerns and that the concerns are legitimate. He stated that their focal point is education, improving skill sets, and raising individuals' self awareness. They market themselves as offering a hand up, not a handout. They are not in contradiction to the plans of the City, they are in complete compliance. Their goal is to help create a sense of ownership so that people want to take care of where they live.

He stated that the area is depressed, but not depressing. He stated that there are a collection of people who live in the neighborhood who want to be a part of the comprehensive plan for the City and by giving them access to tools and skill sets, they can be a part of what is right, not what is wrong.

Janice Hall of 19 E. Leicester Street addressed the Commission. Her property is behind and adjacent to the applicant's property. Her main concern was that there were several different activities taking place at this facility, a soup kitchen, training classes, etc., which will promote increased traffic. She stated that she is now having problems parking. Her son parks his trailer on the street, and she parks in the driveway.

Chairman Adams referred to the overhead photo and asked if the white trailer in the photo was her son's.

Ms. Hall stated that it is. She further stated she has visual issues that make it difficult to judge distance and that cars have parked right up to her driveway, and occasionally in it as well.

Ms. Hall stated that the parking lot across the street only held twenty to twenty five cars which is not much parking, and her biggest concern is that they will be on the street. She stated that she has no objection to helping less fortunate people, her only concern is traffic and parking.

Lorie Sterling addressed the Commission. She stated that she works for Habitat for Humanity and lives at the corner of Cameron and Monmouth Streets. She stated that parking had always been a problem and that this would probably not make a big difference overall. She stated that she welcomes the use to the community. She stated that she knows one of the workers, Ms. Webster, personally from working with her in the past. She stated that she felt confident that they would run a tight ship and that having this organization in the neighborhood would not adversely affect it.

Chairman Adams closed the Public Hearing

Vice-Chairman Shore stated that during the work session it had been mentioned that there were church services held at this location. He asked what time the services were.

Mr. Elliott stated that right now there are two separate churches who have services at the location. One service is on Saturday beginning at 9:00 a.m. and finishing around 1:00 p.m. Sunday service begins around 10:30 a.m. and goes until 1:00 or 1:30 p.m. at this time.

Vice-Chairman Shore asked Mr. Elliot if he would be willing to work with the neighbor's concerns about parking and her driveway if the application were approved. He stated that he understood that it was difficult to control others, but asked if they would be willing to notify people in some way.

Mr. Elliott stated that they would do this.

Chairman Adams asked if people typically use cars to get to their services.

Mr. Elliott stated that people arriving at the site via car primarily for the worship services on Saturday and Sunday, He stated that they have a maximum of 10 -12 people for the classes, and these people rarely arrive in cars. He stated that they do expect some evening traffic but not on a

regular basis. Saturday mornings they see 20 cars maximum, and 12 on Sunday. That has been the average traffic over the last 1½ months.

Chairman Adams asked if the cars park in the lot across the street.

Mr. Elliott said that people will take an available space on the street if there is one, but they would encourage parking in the lot.

Chairman Adams asked how many parking spots there were in the lot.

Mr. Elliott stated that there are 26.

Vice-Chairman Shore asked if there was a handicap space.

Mr. Elliott stated that there is an on-street spot with blue curb and pointed it out on the map.

Chairman Adams stated that one of the conditions that had been recommended to the Commission for consideration is that there shall be no overnight occupancy. He asked Mr. Elliott if that was alright.

Mr. Elliott stated that it was, and that he preferred it that way.

Chairman Adams asked if the site would be a temporary shelter in extreme cold weather like some churches in the area have.

Mr. Elliott stated no.

Chairman Adams said that another recommendation was no food service. He asked if they needed food service there for preparation of meals.

Mr. Elliott stated that they have two food programs, one is a mobile soup kitchen. The food is prepared on site, placed in containers, and then delivered to motels. He stated that on the second and fourth Sunday they have pot luck following the church services. The members bring the food. It's not a line up; it's for people after church service and they are not independent ventures.

Chairman Adams asked if the meals were sold.

Mr. Elliott stated no, they were not in the market of merchandizing food at all. Members of the church bring in food to share with one another.

Chairman Adams asked Mr. Elliot that if there were a restriction on the sale of food, if that was consistent with what he is proposing.

Mr. Elliott stated yes.

Vice-Chairman Shore asked if there would ever be a situation where there would be overflow lines of people out on the sidewalk. Mr. Elliott stated that that was highly unlikely, as that is not a part of the vision. They want to help people, but not be a soup line or cafeteria. The services are way beyond food.

Chairman Adams asked for clarification of the after hours special events that the applicant was proposing.

Mr. Elliott gave the example of a Saturday night fall open house in two weeks that would offer children's games, pictures, and hot dogs. He anticipated that it would be the last night event for now and that it would be a rare occurrence.

Chairman Adams asked what the hours would be.

Mr. Elliott said that the hours on the police permit were 6 p.m. to 9 p.m. He said that this was an open house for the building and not intended to go to midnight.

Chairman Adams asked how many times a year they would anticipate having an open house of this type, with the need of a nighttime program.

Mr. Elliott stated that he was unable to answer that question because he had no others planned. He stated that there was a wedding reception planned for January, but they didn't have a date yet. He did not anticipate that it would go to midnight. Aside from the one fall festival that they had the permit for, they had no ongoing systematic plan in place.

Chairman Adams asked Mr. Diem if the applicant will be out of compliance if they use the site this way and if he had a recommendation as to how to address it.

Mr. Diem stated that another condition could be included reflecting the incidental and infrequent use of the establishment for evening functions not to extend beyond 9 p.m., with no more than x per year, not to exceed 12 per calendar year, or one per month.

Chairman Adams asked if everything that they are requesting would require a permit.

Mr. Diem stated that a large outdoor annual event or fall festival would require a permit, but the wedding reception would not.

Chairman Adams stated that he sees what the applicant is proposing as being in line with City Council's objectives in at least 3 of the 5 areas, those being: 1) Assist persons and families overcome poverty, abuse and neglect, 2) Stem the growing rate of teen pregnancy in Winchester, and 3) Ensure that the health and human needs of the local population are adequately served.

Chairman Adams stated that he does not see the proposed services acting as a magnet, but acting as any church does, and that churches offer more than what the applicant is. He stated that it was a win/win situation for all involved.

Commissioner Talley asked the applicant how many people would be allowed for events.

Mr. Elliott stated that they have a self imposed limit of 100 people at any time.

Commissioner Talley asked if they plan to offer services to residents of Clarke and Frederick County.

Mr. Elliott stated that their focal point was the surrounding 4-5 blocks. His thought was that if they needed to expand, it would be into another location. Bringing people in from another location could create parking issues.

Vice-Chairman Shore asked Mr. Elliott how they would control how many people have access to their services.

Mr. Elliott stated that there are built-in controls. One is a limit on the number of people who can attend classes. Driving in from Clarke would not be easily done. Classes that are too large are not easy to mentor.

Commissioner Talley stated that he felt that what they are doing is great, but it's a very intensive use for the area. He agreed that it fits what the City Council has said in some areas, but this area was meant as a buffer between residential and business and this seems more like a business. He felt that because of this, the motion should be denied.

Mr. Elliott said that when reading the Comprehensive Plan, you can see how this area needs to be redeveloped. His concern is if the buildings are redeveloping and the people are not, that this doesn't really fit in with the overall plan of the City. He felt that approaching it from both sides was the best way to handle this.

Commissioner Beatley stated that she tends to agree with Chairman Adams in that this is a positive service and not much of a difference from what a church provides. She stated that she was in favor of supporting the application.

Mr. Elliott stated that it's much easier for people to claim ownership of a community center than a church, by taking pride in the center, and being passionate about its programs. Typically what happens in a church stays in a church. With no ownership there is no pride.

Vice-Chairman Shore moved to forward CU-11-520 to City Council, recommending approval for the applicant, Phazz One Ministries, Inc., to operate a private community center at 501 South Cameron Street, as the request addresses specific social service needs and represents no threats to public health, safety, and welfare. The following conditions shall be imposed:

- 1. The applicant taking into consideration any/all concerns of neighbors and addressing them as they come up.*
- 2. Hours of operation shall be limited to 8AM to 6PM, with the exception of incidental or infrequent events not to exceed one per month and not ending later than 9PM.*
- 3. There will be no overnight occupancy, temporary shelters, food service for sale, or other services provided for guests, visitors, or staff;*
- 4. Noise, litter, light, and other potential nuisances shall be avoided, in accordance with the applicable provisions of the Winchester City Code and Winchester Zoning Ordinance.*
- 5. Loitering outside the facility on the public sidewalk and within the rights-of-way shall not be permitted.*

The motion was seconded by Commissioner Beatley.

Motion passed 3-1 (Commissioner Talley in the negative).

NEW BUSINESS

- A. MS-11-554** Request of Green Frog LLC and Shenandoah Valley Electric Cooperative, Inc. for a two lot subdivision at 144 Weems Lane including exceptions of public street improvements along proposed Shingleton Lane zoned Commercial Industrial (CM-1) District.

Mr. Youmans stated that this request is for approval of a Minor Subdivision to subdivide off one 2.0-acre parcel from the larger parcel. The new parcel would have approximately 391 feet of frontage only along an existing public right-of-way that is currently unnamed and underimproved. A separate request for street naming as "Shingleton Lane is pending Council action. The applicant has requested that, in conjunction with the proposed use of the 2-acre parcel as an electrical substation, that they receive an exception per Section 8-1 of the City Land Subdivision Ordinance to not make full improvements to Shingleton Lane.

The subject land consists of a CM-1 zoned lot situated in behind other lots fronting along the north side of Weems Lane that are zoned B-2. It fronts along Valor Drive at the far west end of the site. The subject area is vacant and was conditionally zoned CM-1 in 2006 subject to proffers including an obligation to provide a private access roadway connecting the extension of Valor Drive to the partially improved roadway that is proposed for naming as Shingleton Lane. Shingleton Lane connects to S. Loudoun Street between Commonwealth Plaza and Burke Center II.

The applicant wishes to lop off the eastern 2-acre portion of 144 Weems Lane to convey to SVEC for a replacement electrical substation. The existing substation on the east side of S. Loudoun St just north of the HandyMart would be removed. Given the infrequent traffic generation aspects of the proposed use, the applicant is asking to not be obligated to complete frontage improvements along Shingleton Lane. This would include: pavement widening, curb and gutter installation, street lighting, and sidewalk installation. The applicant would provide some pavement widening and curb and gutter at both the east driveway connection to the substation as well as at the proposed connection to a proposed 20-foot wide interparcel access roadway that fulfills a proffer obligation associated with the 2006 conditional rezoning of the property. The existing pavement width along Shingleton Lane varies, but appears to be at least 20 feet at the narrowest.

Staff recommends that the 230 feet or so of private access roadway that traverses the west edge of the 2-acre parcel be built or bonded in conjunction with this proposed subdivision and the proposed electrical substation site plan, particularly in light of the numerous exceptions of subdivision improvements that are otherwise being requested. It could be gated at the connection with Shingleton Lane until such time that future development on the remaining Green Frog LLC property is undertaken, thus allowing interparcel connectivity and connection to Valor Drive.

Mr. Youmans stated that staff supports the request as referenced in the staff report.

Chairman Adams opened the floor to questions.

Vice-Chairman Shore observed that there were no negative comments from the neighbors. Mr. Youmans stated that there weren't and that this item was also not going through the public hearing process.

Vice-Chairman Shore asked if the neighbors would be notified. Mr. Youmans stated that it was not required.

Referring to the overhead photo, Chairman Adams asked what the purpose of the flare out was.

Mr. Youmans stated that the applicant was doing this because they didn't want to incur the cost of full improvements.

Chairman Adams stated that this seems to be the perfect place for the substation because it will be in an area not seen by all and provide opportunity for expansion.

Commissioner Talley moved to forward MS-11-554 to Council recommending approval subject to:

- 1. Staff review and approval of the Minor Subdivision plat;*
- 2. Use of the proposed two acre lot for Electrical Substation and access drive use only;*
- 3. Provision of surety to cover any improvements that will not be completed prior to the recordation of the plats; and,*
- 4. Approval of exceptions per Section 8-1 of the Land Subdivision Ordinance to not require improvements to proposed Shingleton Lane except as depicted on the drawing entitled "Concept Site Layout, S.V.E.C.-Southern Winchester Substation" dated 9-19-2011.*

The motion was seconded by Vice-Chairman Shore.

Motion passed 4-0.

B. Administrative Authorization:

SP-11-480 Greenway Engineering 3085 Shawnee Dr NW Works revision

Mr. Moore presented the site plan. He stated that the applicant was proposing edge of pavement condition for the entire rear area. Staff suggests requiring curbing in certain areas as shown on the mark-up plan because of surrounding grade and proximity to the building. Staff supports the waiver request for the remainder of the area.

Commissioner Talley moved to grant administrative authorization for SP-11-480 with a waiver of curbing as recommended by staff.

The motion was seconded by Vice-Chairman Shore.

Motion passed 4-0.

C. Follow-up discussion regarding Form-Based Code District

Mr. Diem stated that this was in regards to a draft of the form based code by Parsons-Brinkerhoff. This is a rough draft document and, as such, staff will need to identify City-specific needs and bring these to the attention of the consultant, as well as a number of typos, errors and inconsistencies in the document. These will need to be corrected so that we have a clean, clear document for public hearing.

There is also a need for additional information and clarification of terms which were noted in the staff review. It should be noted that this is simply a model of what that type of code may look like. It is not being proposed and the City is not sponsoring a form-based code rezoning. With the form-based coding and the zoning ordinance, Mr. Diem stated that staff would propose that

this was an optional tool for developing a property. It is not a device to alter or change the existing zoning without developers or owners making that first step in presenting a request.

We've considered how this would come into play or the feasibility of form based code, and at this point we have come to a consensus, as a tool to replace the existing zoning district.

Mr. Diem stated that, at this point, staff is soliciting feedback and reaction from the Commissioners concerning the flow, the layout, or any other suggestions. The next step is to return a marked up version to Parsons Brinkerhoff and include comments from the Commission and staff. He is also seeking a definitive process for procedures of applying.

Commissioner Beatley asked Mr. Diem about the Ward Plaza example.

Mr. Diem stated that this was a draft crafted by the consultant as an example of how form-based code could apply to this site. Staff would not propose it to be codified into the Ordinance, but have it as an example to give developers an idea of the types of issues they would have to address or the outline they would have to follow.

Commissioner Talley asked if this does away with site plans.

Mr. Diem stated that it would not.

Vice-Chairman Shore, Chairman Adams, and Mr. Diem discussed conditional use provisions and the different categories of what could be permitted.

The Commissioners and staff discussed some of the inconsistencies in the draft. Discussion of the definition of boulevard took place, and allowable ground-level residential facing Valley Ave and Weems Lane.

Chairman Adams and Mr. Diem discussed possible timetables for when staff would send revisions to the consultant. Chairman Adams suggested that because three Commissioners are absent this month, that Mr. Diem should speak with the missing Commissioners before making comments to the consultant.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:26pm.

Nate Adams, III, Chairman