

PLANNING COMMISSION
MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, March 20, 2012 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

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

PRESENT: Chairman Dave Shore, Vice-Chairman William Wiley, and Commissioners Jennifer Beatley, Kevin McKannan, Stephen Slaughter, and John David Smith. Commissioner Carroll “Beau” Correll, Jr arrived late. (7)

ABSENT: None (0)

EX-OFFICIO: Councilor John Tagnesi and Interim City Manager Craig Gerhart

FREDERICK CO LIAISON: Commissioner Mohn

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

VISITORS: David Stegmaier, Adrian Zhang, Ron Hottle, Abby Schwartzlow

APPROVAL OF MINUTES

Vice-Chairman Wiley moved to approve the minutes of the February 21, 2012 regular meeting as presented. The motion was seconded by Commissioner Beatley.

Motion passed 6-0

CORRESPONDENCE

Mr. Youmans stated that there was a request from the applicant of case SV-12-40 to table his request so that he would have the opportunity to talk with his neighbors about it. He said that there was a revision to CU-12-63 that would be addressed by Mr. Diem later in the meeting. He also stated that a revised draft of the CIP was emailed to the Commissioners with a draft motion to support it and forward to City Council.

CITIZEN COMMENTS

Mr. David Steigmaier, Director of Community Outreach for Congressman Wolf, Shenandoah Valley Region, wanted to make himself available if there was a need for anyone to bring issues to the Congressman’s attention, and stated that he had business cards available to anyone who would like one.

REPORT OF FREDERICK COUNTY PLANNING COMMISSION LIAISON

Mr. Mohn said that the Frederick County Planning Commission met on Wednesday, March 7, and that they had a light agenda with one Ordinance amendment regarding sidewalks. He said that they would not have a regular meeting next week but would instead have a first public presentation of the Senseny-Eastern Frederick open area land use plan at the County office building in the board room at 7:00 pm.

PUBLIC HEARINGS

- A. **CU-12-44** Request of Adrian Zhang dba 360 Night Club for a conditional use permit for nightclub use at 2250 Valley Ave (*Map Number 270-01-4*) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. (**Mr. Diem**)

The applicant is seeking a conditional use permit (CUP) to operate a nightclub use at 2250 Valley Avenue, which is an address within the Ward's Plaza shopping center.

Referring to the overhead screen, Mr. Diem stated that the subject property is located entirely within the Highway Commercial (B-2) District, with Corridor Enhancement (CE) overlay. Surrounding properties are similarly zoned, B-2. The address is situated on the east side of Valley Avenue, just south of Weems Lane.

The applicant submitted a letter of intent with the application materials, which included the following excerpt:

We are requesting to be open every day from 11am to 2am. During the remodeling process, we used special material to reduce noise and have a professional management team to run the business. Our intention is ensure that the business would not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood, and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood.

The applicant also provided professionally-prepared floor plans for the restaurant/bar and proposed nightclub area, which features a stage, a standing area, a seating area, two separate bars, and ADA compliant restroom facilities. The establishment will be physically interconnected with the Red Panda Buffet restaurant, and can also be accessed by a front door directly into the foyer of the proposed nightclub establishment, with two sets of double doors separating the outside and inside doors. Mr. Diem said that this should assist in minimizing the noise level outside of the establishment.

With regards to the request presented, the Zoning & Inspections Administrator has considered a number of factors that may contribute to the decision as to whether or not a nightclub CUP should be approved in this instance. Among those, are available off-street parking, lighting and security, proximity of residential properties, and history of police incidents.

As depicted in the aerial photograph above, the majority of the site is dedicated to improved off-street parking; therefore, there are no issues or concerns related to available parking accommodations. While there is lighting in the off-street parking lot in front of the establishment, there is a large area to the rear of the proposed nightclub that is dark, bordered by a tree line, and within close proximity to another existing nightclub, TC Tooties. Additional security lighting to the rear of the proposed business would be encouraged to deter any illegal activity. Mr. Diem said that he had spoken with the applicant after the work session about lighting and the applicant had stated that he had no objection to making the area as safe as possible. The closest residential properties are located to the northeast near the intersection of Weems Lane and Valor Drive; and, an age-restricted multi-family dwelling to the east at the intersection of Taft Avenue and Valor Drive. Both of which, are several hundred feet away from the proposed business.

Presumably, the sound will emanate through the front door area, which faces the opposite direction. Finally, there is no history of Police incidents at the establishment related or attributable to alcohol or nightclub type activities.

The Zoning & Inspections Administrator recommends that the Planning Commission forward CU-12-44 to the Winchester City Council recommending approval for nightclub use at 2250 Valley Avenue. For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

Commissioner Correll arrived at 3:07 pm.

Mr. Diem referred to a number of conditions located on page 3 of the staff report for the Commission to consider if they agreed to forward the request to City Council.

Chairman Shore opened the public hearing

No one spoke regarding the request.

Chairman Shore closed the public hearing.

Commissioner McKannan asked how long the applicant has had his ABC license.

Mr. Adrian Zhang stated that he has had it eleven years.

Commissioner McKannan asked the applicant what his timeframe was for installing lighting at the rear of the property.

Mr. Zhang stated that he wasn't sure when he would install them but he thought that it might be September.

Commissioner Correll stated that he needed to recuse himself from the discussion and asked Chairman Shore how to do that.

Chairman Shore stated that his declaration was sufficient.

Commissioner Slaughter moved to forward CU-12-44 to City Council recommending approval because the use, as proposed, should not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood. The recommendation is subject to:

- 1. Review in six (6) months; and, re-approval required in three (3) years;*
- 2. The business shall comply with applicable noise and maximum sound level regulations per Sections 17-6 and 17-7.1 of Winchester City Code, as amended;*
- 3. The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
- 4. A maximum of four (4) criminal offense police calls per month within or attributable to the establishment, after which the permit may be subject to revocation;*
- 5. The applicant shall provide security personnel during nightclub use;*
- 6. Additional exterior security lighting shall be installed to the rear of the establishment, as acceptable by the Chief of Police;*
- 7. Nightclub use to cease no later than 2:00am;*
- 8. All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use (including, but not limited to, customer age verification) to occur outside of the building;*

9. *Strict compliance with all local and state laws, especially those pertaining to ABC licensing, annual business licensing, and payment of excise taxes (including meals and admissions tax);*
10. *The applicant is responsible for cleaning up any trash outside the facility after closing; and,*
11. *The CUP expires automatically if the nightclub use changes to another use or if the nightclub use ceases for more than one year, in accordance with Section 18-2-3.8 of the Winchester Zoning Ordinance.*

The motion was seconded by Vice-Chairman Wiley.

Motion passed 6-0-1 (Commissioner Correll abstained).

- B. **CU-12-63** Request of Celebrating Patsy Cline, Inc. for reapproval of a conditional use permit, to include a request to modify conditions imposed with the existing permit, for a museum at 608 South Kent Street (*Map Number 213-01-M-17*) zoned Limited High Density Residential (HR-1) District.
(Mr. Diem)

The applicant has submitted a request for re-approval of an existing conditional use permit (CUP), along with a request for modified conditions to be imposed with the granting of such CUP, for the Patsy Cline Historic House museum, located at 608 South Kent Street.

The subject property is located on the east side of South Kent Street, between East Monmouth Street and East Germain Street. The property is zoned Limited High Density Residential (HR-1) District. Surrounding properties are similarly zoned. Mr. Diem stated that the structure directly across the street has been razed and is an unimproved lot.

On May 12, 2009, the Winchester City Council granted a conditional use permit for a museum at 608 South Kent Street. The following conditions were imposed, as a result:

1. Review at the end of three years;
2. Taking into consideration the concerns of all of the neighbors and addressing them as they come up;
3. Museum use to begin no earlier than 10:00am and end no later than 6:00pm on Sunday through Saturday, except for up to four (4) annual fundraisers on either a Friday and Saturday night which may extend up until 11:00pm and require the use of shuttle buses to offset the negative impact of the neighborhood and up to six (6) private receptions on any evening which may extend up to 9:00pm and include no more [that] 55 attendees; and,
4. Employees and volunteers shall park in the off-street parking spaces on the E. Pall Mall St. lot during operating hours; and,
5. Idling of motorcoaches and other vehicles, other than personal automobiles, on S. Kent Street shall only occur out of the travel lanes of the public street and shall occur for the minimum amount of time needed to load and unload passengers, but in no case longer than fifteen (15) minutes.

During the past three years, City staff has received complaints from within the vicinity of the museum regarding tour buses arriving prior to 10:00am, employees and docents of the establishment not taking into consideration the neighbors' concerns, and employees and volunteers routinely parking in the area of the museum on South Kent Street (not on E. Pall Mall St.); all of which, were reportedly not in accordance with the imposed conditions of the CUP.

In an effort to correct the situation, the Zoning & Inspections Administrator met with Board members and docents of the museum. The meeting resulted in a decision by the Board to present a request for re-approval, in conjunction with modifications to the attached conditions for their use. Within their letter of request, which was submitted with their application materials, the applicant provided comprehensive proposed conditions for further review and consideration by the Planning Commission and City Council.

In reviewing the proposed conditions, as modified by the applicant, the concerns raised by citizens within the surrounding neighborhood do not appear to be completely addressed for a full and amenable resolution. Within Item #2, the applicant has requested to begin operating at 9:00a.m., which could potentially result in tour buses arriving even earlier, as has occurred during the past three years when at least one bus arrived at 9:30a.m. in advance of the 10:00a.m. operating hour. Buses arriving in the neighborhood at 8:30am would pose an increased threat to an existing traffic congestion problem on South Kent Street, which allows on-street parking on either side. Perhaps, a compromise of 9:30a.m. would be less intrusive on the surrounding neighborhood and create less of a concern for traffic congestion.

Item #4 provides that employees and volunteers/docents will secure off-street parking whenever possible and parking will not be permitted directly in front of the subject property. By pushing employee/volunteer parking away from the front of the subject property, neighboring property owners and residential tenants in a predominantly residential neighborhood will potentially be pushed further away from the convenience of parking within close proximity of their residences. South Kent Street remains a public street and anyone can park on the public street, unless it is otherwise prohibited by signage or other markings. However, a lack of residential off-street parking for many of the surrounding properties has contributed to the overall congestion of the street, especially in the 500-700 blocks of South Kent Street.

In contrast to those issues outlined above, the Patsy Cline Historic House museum has become a sought after attraction for tourists, visitors, and fans of Patsy Cline from across the nation. The museum contributes to the cultural awareness and overall history of the City of Winchester by recognizing a local citizen who went on to become a country music icon during her short career span, which tragically ended. The historic house museum is located at the site where the artist had lived with her mother for a period of 9 years (1948-1957); and, provides a glimpse of history that would not otherwise be available or appropriate at another location. The incorporation of the museum, in its natural environs and authenticity, should complement the neighborhood, rather than detract from it.

Therefore, it would be in the best interests of the City and the South Kent Street community to determine the most beneficial way in which the historic house museum can continue to exist, while carefully considering and recognizing the potential impacts of increased success that may occur on the surrounding residential properties.

The Zoning & Inspections Administrator recommends that the Planning Commission forward CU-12-63 to the Winchester City Council recommending approval, as the use as modified is less likely to adversely affect public health, safety, and welfare; and, represents the best possible planning practices available for incorporating a museum use within a residential neighborhood.

The Planning Commission may forward their recommendation for approval, denial, or modification of the applicant's request. The Zoning & Inspections Administrator recommends a favorable recommendation, with certain additional modifications to the applicant's request.

Mr. Diem suggested that the word **primarily** be struck from condition #4. He said that this matter had been discussed with the Planning Director and that they found that this situation would be very difficult to enforce whether they had looked for parking in another area. Mr. Diem stated that he had reviewed the modified proposed conditions with the applicant at the work session meeting, to which the applicant had no objections.

Chairman Shore opened the public hearing.

Mr. Ron Hottle, President, Celebrating Patsy Cline, Inc., addressed the Commission and stated that they agree with all the changes to the conditions and would answer any questions that they may have.

Ms. Abby Schwartzlow, 606 South Kent Street, stated that the management of CPC were dismissive at best and on occasion aggressive. She said that the neighbors are not suggesting that they do not want them to be there, they just want to be treated fairly and with respect.

She said that they have often told the administrators of the City and the Police Department that they want to be part of the community but at the same time are quite frankly, aggressive. She said that she has been yelled at in the street by an individual and their condition of addressing concerns of the neighborhood have been met with basically, "It's not my problem", and "get over it", or contempt.

She said that their condition concerning special events is not regulated in any way. She said that after hours they often have tours and there are no limits, no instance, where they are letting the neighborhood know that one is going on. She stated that in fact when she has addressed them directly, although there are 15-20 people in the house and cars parked out in front of her home, they deny that there is a tour going on. She said that that was a problem.

Ms. Schwartzlow stated that there are options for auxiliary parking, that they have an extended piece of property and driveway along the side of the house which could accommodate at least six parking spaces, which could reduce the effect on the neighborhood.

Ms. Schwartzlow said that there is an empty lot across the street that had been offered to CPC as a parking lot which they turned down and now there will be a house built on that property.

Ms. Schwartzlow stated that there will be an increase in visitation in the summer to the house museum and added construction traffic, which will make it difficult for the residents to park as there is all ready limited to no off street parking.

Ms. Schwartzlow said that there is a posted speed limit of 25 mph and that people frequently go much faster than that. She said that she has spoken with the police and the police chief, both of which have come out to the neighborhood and are reluctant to post officers on South Kent because there is nowhere for them to hide, therefore there is no way for them to ticket people.

Chairman Shore stated that the Commission recognizes that there are problems and that this is an attempt to tighten everything up and take into account the problems that Ms. Schwartzlow was talking about.

Ms. Schwartzlow said that that was why she was at the meeting representing the neighborhood.

Chairman Shore closed the public hearing.

Commissioner McKannan addressed Mr. Hottle and asked him if he heard what Ms. Schwartzlow had said and how he would respond.

Mr. Hottle, addressing the parking behind the house, he said that it has been investigated. He said that due to the fact that they do not have restroom facilities available, and they may be required to provide ADA restrooms, the area behind the home would be the most likely location for them and the driveway would have to be a sidewalk back to them. He said that they have investigated the cost for this and it's very expensive, so they are working with the Department of Historic Places to determine if they need restrooms and if so, if they would need to be ADA compliant. He said that if they do, it would take the parking that they could provide in the rear away.

Mr. Hottle said that they have spoken with the owner of the lot across the street but they have not been approached about using the property for parking.

Mr. Hottle said that he did agree that speeding was an issue but he did not feel that the speeders were people coming to the museum. He agreed that when you have buses and additional cars coming to visit the property, it is getting crowded.

As for the case last year where a bus had come before the time permitted, Mr. Hottle stated that they are informing all the tour bus drivers of the requirements of the CUP, both the old one and the one they are applying for at this time, to make sure they understand that they cannot be there more than 15 minutes before the tour begins. He said that the case from last year of a bus arriving early was unexpected. He said that they had come from Pennsylvania and had requested a tour after hours but were turned away. They returned the next morning earlier than they should have.

Mr. Hottle said that they are striving to do their best to work with the neighbors.

Mr. Hottle stated that they had parking available on Pall Mall Street, but one year after the CUP was issued the lot was sold and they could no longer use it. He said that during their construction period they probably did have more vehicles there than they should have but once it was completed that problem went away. He said that they are striving to let people know that there is limited parking.

Mr. Hottle said that they have one paid staff member, twenty plus docents and no more than two docents at one time on site, with most being husband and wife teams most likely driving only one vehicle.

Mr. Hottle said that they were hoping to have 45 minute tours this year with tours beginning on the hour so they don't have a big gathering of people waiting for the next tour.

Mr. Hottle said that they have done a lot of work to improve the situation since the CUP was issued.

Commissioner McKannan said that he noticed that the word primarily was struck from the conditions. He said that given the lot was taken away or sold, where else would they park?

Mr. Hottle said that there was one place off of East Pall Mall Street that had been offered to them, and would provide parking for two or three cars and that buses would need to go and find parking somewhere else, such as the Frederick Winchester Visitors' Center, or the CCAP parking lot on the weekends. He further stated that the Moose Lodge had offered their lot for buses and cars in the future when the Green Circle is completed.

Commissioner McKannan asked if Mr. Hottle felt that parking would continue to be an issue.

Mr. Hottle said that the parking includes tours coming in as well, and they are limited to 20 people on a tour at a time. He said that while that doesn't represent too many cars, the tours are a different thing. Mr. Hottle said that since they most likely do not know the area, they will park on Kent Street, but they insist that the docents and any others involved with the house park in another area.

Mr. Youmans said that the lot that was intended to be used for employee parking is not the lot that was sold; it is another lot that is across the street will be built upon. He said that he had spoken with the owner, Mr. Craun, earlier in the week, and this is the lot that is still available to be used for temporary parking.

Commissioner Slaughter said that it was not a question that the museum was an asset to the City but it was concerning that a neighbor was frustrated. He asked Mr. Hottle what their procedure was for neighbors to log a concern or complaint.

Mr. Hottle said that he hoped they would come directly to them and they have tried to answer any concerns that came to them. He said that anyone is welcome to come to the Board, the Executive Director, or the Winchester/Frederick County Visitors Center because they work very closely with them.

Commissioner Slaughter said that it sounded like Ms. Schwartzlow was frustrated with approaching someone. He said that it made sense to be proactive, appoint someone and make it well known to the neighborhood who that person is so that it's easy for the neighbors to talk with someone.

Mr. Hottle said that he understood and would do so.

Chairman Shore suggested letting the neighbors know about upcoming events as well.

Mr. Hottle said that the neighbors have been included.

Chairman Shore asked about after hour events that weren't consistent with the special events scheduled mentioned in the CUP.

Mr. Hottle said that they have six events after hour events in the old CUP. He said that they added ten because their Board meets at the house. Mr. Hottle said that they will meet after the 4:00 tour ends most months, but not all.

Mr. Hottle said that they have given private tours but do not plan to do that and that the tours they did do were for the State Director of Tourism. He said that several bus tours have come on special occasions and that their intent is to have tours end at 4:00, with occasional Board meetings in the house.

Mr. Hottle said that they have had several requests to perform weddings in the home, and they have created two packages to offer people for either three people present or up to nine. He said that that can occur during tour times if feasible, but will most likely be after hours. Mr. Hottle said that in September 2011, they had a block party for Patsy's birthday, but they will not be having one this year because Patsy would have been 80 years old and National was throwing the party in Nashville. He said that when they have events like this in the future they would come back to the City to get the required permits.

Commissioner Smith asked Mr. Hottle about the bus tours. He said that if the buses typically bring 40 people to the house, and only 20 can be accommodated at a time in the house, where do the other 20 people go?

Mr. Hottle said that some people stay with the bus when it leaves and sometimes they go to the visitor's center. Mr. Hottle said that most coaches or buses have 55-60 people on them, and they're averaging around 50 people and that some buses will unload everyone at the house and people will wait on the porch while part of the group has a tour. He said that in either case, they are there at most, 15 minutes unloading and loading their passengers. He said that while typical tours run 45 minutes, the bus tours are more likely to be 20-25 minutes.

Commissioner Correll asked if there was a standardized way that they approach the issue of people staying on the bus or waiting at the house on the sidewalk or front porch.

Mr. Hottle said that they either wait on the sidewalk or front porch because they do not have a facility for visitors to wait in. He said that in the future they may have a pavilion in the rear of the house but they do not at this time.

Commissioner Smith asked Mr. Hottle if the age group that attended tours was older.

Mr. Hottle stated that it generally is. Mr. Hottle said that last year August to October they had 3000 visitors from 49 states and 7 nations.

Chairman Shore closed the public hearing.

Vice-Chairman Wiley said that he travels Kent Street frequently and that things are tight there and there are speeding issues, but to he felt that the buses were pretty efficient with moving on.

Commissioner Slaughter, after reviewing the conditions of the CUP, felt that nothing needed to be added as it was pretty comprehensive. He said that there would certainly be challenges with mixed use but having the museum is a cultural asset for the City. He said that he is in favor of the CUP but that they needed to make every effort to address the frustrations of the neighbors.

Commissioner Smith expressed concern over the change in the hours from 9:00 to 9:30. He said, understanding the nature of bus tours that they were trying to pack a lot into the time allotted and still have people either waiting on a bus or the sidewalk.

Mr. Hottle said that they can get the house ready for tours 15 minutes prior to the tours but they can't do it earlier. He said that they have asked the bus tours to respect the time constraints that are in place.

Chairman Shore asked if they were complying, and Mr. Hottle said that most have thus far, with the one exception.

Vice-Chairman Wiley moved to forward CU-12-63 to the Common Council of the City of Winchester recommending approval of a Conditional Use Permit to operate the Patsy Cline Historic House museum, located at 608 South Kent Street. The approval is suggested to be subject to the following conditions:

- 1. CPC and the staff of the PCHH will continue to listen to and address the concerns of all the citizens in the neighborhood surrounding 608 South Kent Street and will make sure that no action should adversely affect the health, safety, or welfare of the citizens and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood;*
- 2. The use of the PCHH will begin no earlier than ~~9:00~~ **9:30a.m.** and end no later than 6:00p.m. Sunday through Saturday with the exception of the use of up to three (3) annual fundraising events on either a Friday or Saturday afternoon and/or evening which may extend up until ~~11:00~~ **10:00p.m.** and could require the use of shuttle buses to offset the negative impact of the neighborhood. During the regular opening hours of the PCHH, activities will include administrative and training functions, tours and other CPC and PCHH meetings;*
- 3. In addition to the fund raising events PCHH on an annual basis will hold not more than ten (10) special events (i.e., Christmas and other seasonal tours, private receptions, etc.) which may extend up to ~~9:00~~ **10:00p.m.** Private receptions shall not include more than 55 attendees.*

4. *Employees and volunteers/docents of PCHH shall secure off-street parking, whenever possible, within a reasonable walking distance of 608 South Kent Street and shall not park directly in front of the historic house on the public street; nor, within one property either north or south of the historic house on the east side of South Kent Street. There will be no parking allowed in front of the house during regular tour hours and proper signage will be posted to this effect;*
5. *Idling of motor coaches and other vehicles, other than personal automobiles, on South Kent Street shall only occur out of the travel lanes of the public street and shall occur for the minimum amount of time needed to unload and load passengers;*
6. *Motor coaches and other vehicles, other than personal automobiles, shall arrive no sooner than thirty (30) minutes prior to the opening of the house for the purpose of regular tours;*
7. *Motor coaches and other vehicles, other than personal automobiles, shall secure off-street parking (i.e., CCAP South Kent Street parking lot on non-business days, the Winchester-Frederick County Visitor's Center and other approved locations) when more than one (1) hour is required ~~to~~ **for** tours or events;*
8. *The PCHH will work co-operatively with the City of Winchester in its "Green ~~City~~ **Circle Trail Project**" to incorporate plans for access to the Circle and the PCHH. PCHH will conform with the City of Winchester's Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation to purposes and expressed intent of the conditional use permit Ordinance;*
9. *Operators and owners of motor coaches and other tour organizations will be informed of the conditions of the approved CUP in all contractual negotiations and agreements and will strongly urge their compliance. **Repeated failures of specific individuals or organizations to comply, shall require PCHH to contact the Winchester-Frederick Visitor and Tourism Center for assistance with remediation;***
10. *Any exterior work done to the house and landscaping of the grounds including the addition of outside structures will take in consideration noise, lights, dust, odor, proper screening and other conditions which might adversely affection adjoining properties;*
11. *Any event or activity with the PCHH desires to pursue which is not included in the conditions of this CUP will require petition and/or application to the appropriate City committee or Council; and,*
12. **The CUP shall expire or be subject to revocation in accordance with the outlined provisions of Article 18, General Provisions, Section 18-2, Conditional Use Permits, of the Winchester Zoning Ordinance, as amended.**

The motion was seconded by Commissioner Smith.

Motion passed 7-0.

Chairman Shore explained the process to Ms. Schwartzlow as to what occurs once a case has been forwarded to City Council.

NEW BUSINESS

- A. **SV-12-40** AN ORDINANCE TO VACATE A 50' LONG PORTION OF A PUBLIC ALLEY LOCATED ON THE NORTH SIDE OF A VACANT LOT AT 424 WEST CLIFFORD STREET AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY.

Mr. Moore said that this requested to be tabled by the applicant so that he would have time to discuss it with his neighbors.

Chairman Shore asked when this matter would be heard.

Mr. Moore suggested that the Commission table it until next month.

Commissioner Slaughter moved to table SV-12-40 until the April 17, 2012 meeting.

The motion was seconded by Commissioner Beatley.

The motion passed 7-0.

Mr. Youmans said that because this is not an advertised public hearing, there is not as much of a concern about when it would be heard.

B. SV-12-78 AN ORDINANCE TO VACATE A PORTION OF SPRING STREET RIGHT-OF-WAY ADJACENT TO 1462 GREYSTONE TERRACE AND CONVEY IT TO THE OWNER OF THE ADJACENT PROPERTY.

The request entails vacating the public street purpose for a portion of the existing improved section of Spring Street adjoining the south side of Mr. Dwight Allen's property at 1462 Greystone Terrace. He is asking that, if vacated, the entire 50-foot wide segment of Spring Street be conveyed to him for assemblage into his single-family residential lot.

The subject portion of Spring St has Medium Density Residential (MR) zoning on the north half and Conditional B-2 zoning on the south half. Mr. Allen's existing property as well as all of his neighbors' properties along Spring St has MR zoning. Land to the east (Goodwill) is zoned B-2 commercial as is the existing portion of Spring St between the Goodwill establishment and the Winchester Wheels property fronting along the south side of Spring St closest to Millwood Ave. The newly platted, but unimproved portion of Spring St extending through the JDC Winchester LLC (JDC) property is conditional B-2 zoning as is the vacant JDC property along both sides of the platted right-of-way.

This vacation and conveyance request is a logical 'next step' in an extended process to realign Spring Street away from its present-day connection with Greystone Terrace and instead connect to the signalized intersection with S. Pleasant Valley Rd near Taco Bell and Kmart. Any approval of this request, however, would need to be conditioned upon actions outlined in the approved proffers associated with the JDC Winchester LLC rezoning (RZ-11-274). That conditional rezoning was approved by City Council on August 9, 2011 and specifically referenced proffers dated August 4, 2011 and a Rezoning Exhibit dated August 4, 2011.

The Rezoning Exhibit from the August 2011 rezoning for JDC serves as the base drawing for this proposed street vacation and conveyance request. It depicts the proffered Greystone Terrace cul-de-sac which would need to be constructed before any Spring St vacation could take effect beside Mr. Allen's property. Also, the newly aligned section of Spring St connecting to the former KMart entry drive (now a portion of the acquired Spring St public right-of-way) would need to be built. The construction of the newly aligned Spring St and the Greystone Terrace cul-de-sac are triggered by development of any of the JDC property along either the east or west side of Spring St extended. Therefore, Mr. Allen's vacation and conveyance request needs to be conditioned upon development of the JDC property consistent with the approved rezoning.

The JDC Rezoning Exhibit conceptually depicts a driveway layout within the portion of Spring St proposed for vacation and conveyance by Mr. Allen. While Mr. Allen is not required to follow this concept plan, he does have a garage that presently is oriented to existing Spring St in the area that would be eliminated with the realignment of Spring St southward through the JDC property. The JDC developer would be responsible for constructing a standard-sized driveway apron along the radius of the cul-de-sac to allow Mr. Allen to have continued access to his garage. Most likely, the existing paved width of Spring St in the area of the proposed vacation would be narrowed down from its current street width to a width more consistent with that typical of a driveway serving a single-family residence. A backout area would be needed at the far east end to allow for vehicle maneuvering in front of Mr. Allen's garage.

Mr. Allen would be permitted to erect a fence or screening within the area that he is requesting to have conveyed to him. City staff recommends against having a curbcut for Mr. Allen's driveway and garage access directly to the realigned Spring St since it would encourage cut-through traffic between Spring St and Greystone Terrace via his personal driveway. An opening for any such access would also reduce the effectiveness of any screening between the existing and future commercial development along the commercial frontage of Spring St.

A vacation and conveyance of this subject portion of Spring St would need to be conditioned upon establishing utility easements for existing utilities situated within the existing public right-of-way. This includes City utilities such as water and sewer, as well as private service utilities including electric, telephone, gas, and CATV. An easement should also be reserved for drainage (both surface and subsurface) to ensure that proper stormwater management is maintained within the Greystone Terrace residential neighborhood.

City Council will need to determine the terms of conveyance of the property including a purchase price either as a lump sum or on a square footage basis. There is not a survey of the subject area prepared at this point, so staff is not able to provide the actual size of the conveyance area. It appears to be somewhere around 4,500 square feet. Council has utilized a figure of fifty cents per square foot on previous residentially zoned right-of-way conveyances.

The vacation of this portion of Spring St is consistent with the Comprehensive Plan and with the conditional rezoning of the JDC property in 2011. Mr. Allen is the only adjoining property owner to logically consider conveying the vacated right-of-way to assuming that JDC has no interest in acquiring any of it for screening and buffering of the future commercial development. Because the effectuation of this request is dependent upon an unknown timeframe of development on the adjoining JDC property, staff recommends that the approval be effective beyond the 12-month expiration otherwise stated in Virginia Code.

Chairman Shore asked Mr. Youmans if he was looking for a motion.

Mr. Youmans said that the Commission's role was to find whether it's consistent with the Comprehensive plan. He said that the plan calls for redevelopment in this area.

Chairman Shore said that this property has undergone a couple of different incarnations, so theoretically if someone bought the property, and wanted to do something different, that would then vacate this whole situation, wouldn't it include a need for Spring Street.

Mr. Youmans said that it was possible but unlikely that the plan would change because City Council has formally accepted the proffers that are associated with the rezoning, as they go with the land.

Chairman Shore asked if there were any more questions.

Vice-Chairman Wiley stated that this was no man's land to him and that this is an opportunity for a private owner to take on this property and would behoove the City to convey it to the applicant.

Commissioner Beatley moved to forward SV-12-78 to City Council recommending approval with conditions because the request is consistent with the Comprehensive Plan and the recent rezoning of the JDC Winchester LLC property calling for the realignment of Spring Street. The recommendation is subject to:

- 1. Fulfillment, by others, of the approved proffers associated with the JDC Winchester LLC rezoning (RZ-11-274), approved by City Council on August 9, 2011 and specifically referenced proffers dated August 4, 2011 and a Rezoning Exhibit dated August 4, 2011;*
- 2. Establishment of utility easements for existing utilities situated within the existing public right-of-way including City utilities such as water and sewer, as well as private service utilities including electric, telephone, gas, and CATV, and easements for needed drainage (both surface and subsurface);*
- 3. Extension of the 12-month expiration otherwise stated in Virginia Code; and,*
- 4. Submission and approval of a Minor Subdivision and recordation of a plat depicting the vacated right-of-way being assembled in with the adjoining property at 1462 Greystone Terrace.*

The motion seconded by Commissioner McKannan.

The motion passed 7-0.

C. FY 2013-2017 Capital Improvements Program

Mr. Youmans stated that the Commission should have received an updated version of the Capital Improvement Plan. He said, as indicated in the email, there was an added reference to the Monticello Street project and also includes \$4,900,000.00 in 2013 which would be state funded. He said that otherwise there were no other changes. He suggested that, if the Commission feels that this is consistent with the Comprehensive plan, they recommend approval and send it on to City Council.

Chairman Shore explained the motion.

Commissioner McKannan moved to forward the draft of the Capital Improvement Plan to City Council recommending approval because it is generally consistent with the adopted Comprehensive Plan.

The motion was seconded by Commissioner Beatley.

The motion passed unanimously.

ADJOURN

With no further business, the meeting was adjourned at 4:07 p.m.

Dave Shore, Chairman