

**PLANNING COMMISSION
MINUTES**

The Winchester Planning Commission held its regular meeting on Tuesday, April 16, 2013, at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

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

PRESENT: William Wiley, Stephen Slaughter, David Smith, Beau Correll, Dave Shore, Martha Shickle (6)

ABSENT: Jennifer Beatley, Kevin McKannan, Councilor John Tagnesi, City Manager Dale Iman (4)

EX-OFFICIO: None present.

FREDERICK CO. LIAISON: Kevin Kenney

STAFF: Tim Youmans, Will Moore, Aaron Grisdale, Catherine Clayton (4)

VISITORS: Ben Butler, Gail Engel, Seth Newman, Todd Way, Vicki Lord

APPROVAL OF MINUTES

*Commissioner Shore moved to approve the minutes of the March 19, 2013, meeting as submitted.
Commissioner Slaughter seconded the motion.*

Motion passed 6-0.

CORRESPONDENCE

Mr. Youmans advised the Commission that the only correspondence was Items 2C (Revision of CU-13-132) and 2D (Revision of TA-13-138) matrix and staff report.

CITIZEN COMMENTS

None.

REPORT OF FREDERICK COUNTY PLANNING COMMISSION LIAISON

Commissioner Kenney advised the Commission that at the April 3rd meeting they discussed a conditional use application for a cottage occupation that was approved for a home office in the Stonewall district for marriage counseling. He stated that they also had a few discussion items regarding the County's Comprehensive Plan policy for Middletown and North East land use plan areas. He advised that the April 17th meeting was cancelled. Therefore, they will not meet until the first Wednesday in May.

Chairman Wiley introduced and welcomed Martha Shickle as the new member to the Planning Commission.

PUBLIC HEARINGS

A. **RZ-13-98** AN ORDINANCE TO REZONE 0.45 ACRES OF LAND AT 2307 STONERIDGE ROAD (*Map Number 269-05-A-1*) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT WITH

CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO LOW DENSITY RESIDENTIAL (LR) DISTRICT WITH CE DISTRICT OVERLAY. (Mr. Moore)

Mr. Moore explained the project and stated that rezoning the subject property back to residential is consistent with the Neighborhood Stabilization Area designation in the Comprehensive Plan and is logical considering the separate ownership that now exists between the subject property and the adjoining, commercially-used property in the County.

Chairman Wiley asked for questions from the Commission. Commissioner Slaughter asked about the easement to which Mr. Moore stated that the easement is already in place with the subdivision and is recorded.

Chairman Wiley opened the Public Hearing.

Ben Butler, representative for the applicant, addressed the Commission and stated that he is available for questions.

Chairman Wiley asked for questions. Hearing none, he thanked Mr. Butler and asked if there was anyone else wishing to speak.

Chairman Wiley closed the Public Hearing.

Chairman Wiley asked for discussion.

*Commissioner Shore moved to forward **RZ-13-98** to City Council recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-13-98, Prepared by Winchester Planning Department, April 9, 2013," because the request is consistent with the Neighborhood Stabilization Area designation in the Comprehensive Plan. Commissioner Smith seconded the motion.*

Voice vote was taken and the motion passed 6 to 0.

B. RZ-13-134 AN ORDINANCE TO REZONE A 0.75 ACRE PORTION OF LAND AT 441 LINDEN DRIVE (Map Number 130-01- -1) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT TO MEDICAL CENTER (MC) DISTRICT. (Mr. Youmans)

Mr. Youmans explained the project and stated that rezoning this small area to accommodate the WMC Cancer Center is identified in the City's Strategic Plan as one of the Management agenda actions for 2013-2014. Additionally, it is consistent with the adopted Comprehensive Plan and promotes economic development by facilitating expansion of regional health care offered in Winchester.

Chairman Wiley asked if the Commission had questions of Mr. Youmans.

Chairman Wiley opened the Public Hearing.

Todd Way, representative for the applicant, addressed the Commission and stated that he is available for questions.

Chairman Wiley asked for questions. Hearing none, he thanked Mr. Way and asked if there was anyone else wishing to speak.

Chairman Wiley closed the Public Hearing.

Chairman Wiley asked for discussion.

*Commissioner Slaughter moved to forward **RZ-13-134** to City Council recommending approval as depicted on an exhibit entitled "Rezoning Exhibit RZ-13-134, Prepared by Winchester Planning Department, April 9, 2013," because the request is generally consistent with the Comprehensive Plan which calls for Civic/Institutional use on the periphery of the Medical Center District and because it supports development of the cancer center as called for in the City's Strategic Plan. Commissioner Correll seconded the motion.*

Voice vote was taken and the motion passed 6-0.

C. **CU-13-132** Request of KKE Properties, LLC, for a conditional use permit for conversion of ground floor nonresidential use to residential use at 22 Wolfe Street (*Map Number 193-01-C-8*) zoned Central Business (B-1) district with Historic Winchester (HW) District overlay. (**Mr. Youmans**)

Mr. Youmans explained the project, addressed the updated Staff Report and respective changes, and finally, the e-mail correspondence from Mr. Pifer stating his opposition to the project. Mr. Youmans then stated that in order for a conditional use permit to be issued, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. Additionally, a finding must also be made for this specific type of CUP request that the proposed residential use is as suitable as, or preferable to, other permitted uses on the ground floor.

Chairman Wiley asked the Commission for questions of Mr. Youmans. Commissioner Slaughter stated that he would like to have more background information on the first floor residential and the general policy that the City has had. Mr. Youmans advised that the general policy that the City has had is the general assumption that ground floor spaces are better suited for commercial use; however, there is a history of residential use on the property. Mr. Youmans also stated that temporary approval of conditional use permit 09-302 and the respective violation goes with the property.

Chairman Wiley opened the Public Hearing

Gail Engle, applicant, addressed the Commission and stated that she tried for several months to lease the commercial space and that her opinion is that residential is a better use of the space where she can have someone living there and to help support the economy. She stated that she would rather not have a vacant space.

Chairman Wiley asked for questions. Hearing none, he thanked Ms. Engle and asked if there was anyone else wishing to speak.

Chairman Wiley closed the Public Hearing

Chairman Wiley asked for discussion.

Commissioner Slaughter stated that there are two (2) reasons that he cannot support this request. First, he has an issue with the other apartment stating that needs to be worked out first and secondly, if the Commission approves this request then there really is no point in having the policy because this request is clearly more suited for commercial. Commissioner Shore asked Mr. Youmans if the current property

owner or any subsequent owner would have the opportunity at a later time to change this space back to commercial if the request is approved now. Mr. Youmans stated that under Zoning, the conversion back to commercial use is a By-Right action so long as the space meets the building code standards for commercial use.

Commissioner Smith moved to forward CU-13-132 to City Council recommending approval because the use as proposed should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood; should not be injurious to adjacent properties or improvements in the neighborhood; and, is as suitable as, or preferable to, other permitted uses on the ground floor. The approval is subject to the following: 1) adequate flood proofing of the portion of the structure proposed for conversion in accordance with the applicable flood map designation, as determined by the City Engineer; 2) landscaping in the form of retaining the rooftop garden terrace, some foundation planting, flower boxes, and/or contribution to the OTDB for landscaping within the public right-of-way in the general area in conjunction with BAR review and recommendation of required green area per Section 19-5-6.3a of the Zoning Ordinance; 3) conformity with revised floor plans showing a two-bedroom unit without the rear office/storage room included within the rental unit; 4) the unit shall be subject to the Rental housing Ordinance program within the City of Winchester; and, 5) resolution of the existing zoning violation associated with the illegal occupancy of 26A Wolfe Street as an apartment beyond the 24-month period stipulated by City Council with CU-09-302. Commissioner Shore seconded the motion.

Voice vote was taken and the motion failed 2-4. Commissioners Smith and Shore voted in favor of the motion. Applicant's request will be forwarded to City Council without a recommendation of approval from the Planning Commission.

D. TA-13-138 AN ORDINANCE TO AMEND AND REENACT ARTICLES 18, 21, AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO SIGNS, VIOLATION AND PENALTY, AND FEES. (Mr. Grisdale)

Mr. Grisdale advised of the updated materials and to explain the additions of subsequent suggestions and recommendations and any changes made.

Commissioner Correll asked if the Ordinance section 18-8-18.6 would allow for wood construction for any sign and is any sign exempted from permitting. Mr. Grisdale stated that it would not allow wood for those three types of signs but rather the signs listed in section 18-8-12.2.

Chairman Wiley asked for discussion.

Commissioner Shore moved to forward TA-13-138 to City Council recommending approval because it represents good planning practice by providing for reasonable standards for temporary signs while allowing flexibility for citizens and businesses to conduct temporary advertisements and announcements. Commissioner Correll seconded the motion.

Voice vote was taken and the motion passed 6-0.

3. NEW BUSINESS

A. Resolution to initiate: **TA-13-198 AN ORDINANCE AMENDING ARTICLES 18 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CONDITIONAL USE PERMITS FOR TRANSMITTING AND RECEIVING FACILITIES AND TOWERS AND FEES FOR TELECOMMUNICATIONS FACILITIES AND RE-ADVERTISEMENT FEES. (Mr. Grisdale)**

Mr. Grisdale reviewed the changes, i.e., omission and subsequent inclusion of the HR-1 district in 18-2-1.2, two (2) insertions pertaining to new fee requirements, and the increase in the fee associated with re-advertising a case after it has been put on hold. He then stated that he is available for any questions.

Chairman Wiley asked for questions for Mr. Grisdale.

Commissioner Correll asked if these fees are in line with other municipalities to which Mr. Grisdale responded "yes."

Commissioner Slaughter moved to initiate TA-13-198. Commissioner Smith seconded the motion.

Voice vote was taken and motion passed 6-0.

B. FY 2014-2018 Capital Improvements Program (Mr. Eisenach & Mr. Youmans)

Mr. Eisenach reviewed the CIP stating that the first five (5) projects on the list are the ones that will actually be under construction next year. He then stated that the last six (6) projects are or will be in the engineering design phase with items 6 through 10 being revenue sharing projects with VDOT. Additionally, item #11, the JJC renovations are needed to afford additional space and an additional courtroom. This will be a joint program with Frederick County and it will not change the footprint of the building.

Chairman Wiley asked for questions for Mr. Eisenach and Mr. Youmans.

Commissioner Correll questioned the Meadow Branch Avenue project.

Commissioner Slaughter moved to forward the FY 2014-2018 Capital Improvements Program list to City Council recommending approval.

Commissioner Smith seconded the motion.

Voice vote was taken and motion passed 5-1 with Commissioner Correll voting in opposition.

C. Administrative Approval(s) (Mr. Moore):

1. SP-13-158 403 Battaile Drive - Painter-Lewis - Storage Solutions

Chairman Wiley abstained from this case. Mr. Moore presented the project and stated that this is the first of two phases.

Alternate Chairman Slaughter asked for questions.

Commissioner Shore moved to grant Administrative Approval of SP-13-158 as submitted. Commissioner Smith seconded the motion.

Voice vote was taken and motion passed 5-0-1.

4. ADJOURN

With no further business to discuss, the meeting was adjourned at 4:25 p.m.