

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, February 16, 2010, at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Chairman Adams, Vice-Chairman Shore, Commissioners Sublett, Talley, and Wiley (5)
ABSENT: None (0)
STAFF: Youmans, Moore, Deskins, Diem, and Walsh
VISITORS: John Barker and Barton Chasler

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

APPROVAL OF MINUTES:

Commissioner Talley moved to approve the minutes of the January 19, 2010 meeting as presented. The motion was seconded by Commissioner Sublett.

Motion passed 5-0.

CORRESPONDENCE

A revised agenda packet was presented that included:
Item 3B – TA-10-19 hearing postponed based upon work session discussion
Items 2A and 3A – Staff reports revised based upon work session discussion
Added Item 4A – Comp Plan Discussion

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

A Frederick County Liaison was not present at the meeting.

PUBLIC HEARING – Old Business

A. **CU-09-172** Request of DFC Architects, PC for a conditional use permit for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay.

Mr. Youmans presented the request to replace an existing, deteriorated single family detached dwelling with a two-family dwelling which is only allowed in the HR-1 District with CUP approval.

The property owner originally intended to renovate the existing single family dwelling that has been vacant and uninhabitable for an extended period of time. The property owner discovered that the deteriorated condition of the structure prevented economic and feasible rehabilitation. Instead, they have opted to pursue demolition of the existing structure and propose construction of a new two-family dwelling.

The request was originally scheduled to be heard at the September 15, 2009 Planning Commission meeting; however, the applicant requested the item to be tabled pending the outcome of a Zoning Ordinance text amendment proposal that would affect the standards pertaining to dwellings in the HR-1 district. The subject text amendment was adopted by Council on January 12, 2010. A number of standards that would previously have required relief from the BZA in the form of variances for this application were amended. While the proposal still does not meet all of the dimensional requirements, the two deficiencies that remain are both within 10% of the required standards and are being addressed concurrently with an application for Administrative Modifications.

The applicant is proposing two off-street parking spaces to be accessed from the rear via an ingress/egress travelway. The proposed dwelling has already been presented to the Board of Architectural Review for approval. The Board granted a Certificate of Appropriateness regarding both the demolition of the existing structure and construction of the new structure, contingent upon the applicant receiving the necessary dimensional relief from the Board of Zoning Appeals and the CUP from City Council.

At the February 9, 2010 work session, the Commission discussed the possible future alignment of the Green Circle Trail and whether it might be proposed to traverse the subject property. While the exact alignment is not known at this point, it would be desirable for the City to obtain a commitment for the granting of an easement, if necessary, from the property owner.

Chairman Adams opened the public hearing.

John Barker, representing owner KSR LLC, stated his support of the Green Circle Trail. He stated that he was available to answer any questions.

Chairman Adams closed the public hearing.

Commissioner Talley asked how the parking spaces in the back would be accessed.

Mr. Youmans explained that there is an extension off of East Cecil Street. He added that a certain amount of improvements will have to be done before it can be used.

Vice-Chairman Shore stated that based on the aerial footage, it looked like an alley. He asked if there is an easement in place for access.

Mr. Barker stated that at this point there is just an informal arrangement to use it.

Chairman Adams stated that there is no reference of the size of the easement for the Green Circle. He asked if the applicant would request compensation for its use.

Mr. Youmans stated that he would rather leave the width up to the Public Services staff to work out with the owner if the easement is needed. Mr. Barker added that there would not be a cost associated.

Chairman Adams suggested adding “at no cost” to the language in the condition pertaining to the easement. He asked if there should be reference to the submitted elevations in the conditions. Mr. Youmans stated it is probably not necessary because the elevations were part of the submission and that the draft motion includes the words “the use as proposed.”

Vice-Chairman Shore moved to forward CU-09-172 to City Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The approval is subject to:

- 1) Approval of necessary modifications or variances for lot width and side yard deficiencies;*
- 2) The owner providing an easement at no cost, if deemed necessary and upon request by the City, across a portion of the rear of the property to facilitate the future alignment of the Green Circle Trail. This condition shall be voided if the alignment of the trail terminates to the south of the property; and,*
- 3) Staff review and approval of the related site plan.*

The motion was seconded by Commissioner Wiley

Chairman Adams stated that he is satisfied that the language “the use as proposed” will suffice.

Motion passed 5-0.

PUBLIC HEARINGS – New Business

- A. **CU-09-286** Request of Barton Chasler for a conditional use permit for a two family dwelling at 527 North Loudoun Street (*Map Number 153-01-D-15*) zoned Limited High Density Residential (HR-1) District.

Mr. Moore presented the request to obtain retroactive approval for conversion of a single-family dwelling to two-family use where a conditional use permit is required for such conversion in the HR-1 district.

A discovery was made by City inspection staff through the rental housing inspection program that the subject property was converted to two family use at some point without the requisite conditional use permit. It was also ascertained that work related to the conversion was performed without permits as required by the Uniform Statewide Building Code. The current owner acquired the property in September 2007. As stated in his letter dated September 15, 2009 and revised on February 5, 2010, he maintains that the property was already in two family use at that time and that an affidavit from the previous owner, included with the application, indicates that it had been used as such for over twenty years.

This application was submitted in September 2009. At that time, there were two dimensional standards - lot width and side yard - that the subject property did not meet for use as a two family dwelling. Staff advised the applicant that a text amendment proposal was pending pertaining to standards for dwellings in the HR-1 district that could potentially alleviate the need to also seek relief from the BZA for the dimensional deficiencies. Staff offered to the applicant the option of awaiting the outcome prior to proceeding with the conditional use request. The subject text amendment was adopted by Council on January 12, 2010. The proposal now meets these dimensional requirements based on the revised standards.

Per the submitted floor plans, Apartment A is a 1400 square foot, two-bedroom unit that occupies the entire first floor and a portion of the second floor. Access is from the front of the building and parking is provided in the driveway along the north side. The owner currently resides in this apartment, however the request does not stipulate that this would be a permanent condition. Apartment B is a 1012 square foot, one-bedroom unit that occupies the remainder of the second floor as well as a finished attic. A separate, rear access is provided for this unit. The only site plan requirement that appears to be deficient for the proposal is the provision of defined and surfaced parking area for the second unit. Ample area for parking accessed from the rear alley is available. At staff's suggestion, the owner proposes defining this parking area with timbers or railroad ties. Staff would support a waiver of the surfacing requirement for this rear parking area if approval of the use as a two family dwelling is granted.

Chairman Adams opened the public hearing.

No one spoke about the request.

Chairman Adams closed the public hearing.

Commissioner Talley asked if the applicant would be allowed to turn the basement into living space. If not, he asked what process was in place to make sure it did not happen.

Mr. Moore explained that in order to finish the basement, a building permit would be required. Finishing it to add additional living space for one of the two units would not be a problem, but it would not be possible to convert the basement into an additional dwelling unit, as multi-family cannot be considered in HR-1.

Chairman Adams commended the applicant for bringing the property up to code after so many years.

Commissioner Sublett moved to forward CU-09-286 to City Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The approval is subject to:

- 1) The owner applying for a change of use inspection with the Building Official;*
- 2) The owner applying for all necessary permits as identified by the Building Official and performing any work, if necessary, to comply with the Uniform Statewide Building Code;*
- 3) Definition of rear parking area as depicted on the submitted site sketch; and,*
- 4) A waiver of surfacing requirements for the rear parking area.*

The motion was seconded by Commissioner Wiley

Motion passed 5-0.

B. TA-10-19 AN ORDINANCE TO AMEND ARTICLE 1, SECTION 1-2 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS OF EXTENDED STAY LODGING, HOTEL, AND MOTEL - POSTPONED

Chairman Adams asked if anyone in attendance was present for this item. Hearing none, he reiterated that the hearing on this item was postponed.

C. **TA-10-21 AN ORDINANCE TO AMEND ARTICLES 1, 6, 7, 8, 9, 10, 13, AND 15.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS, PERMITTED USES, AND USES REQUIRING A CONDITIONAL USE PERMIT FOR SHORT-TERM LOAN ESTABLISHMENTS**

Mr. Diem presented the staff-sponsored text amendment to address concerns within the City of a sudden influx of short-term loan establishments, otherwise known as payday lending or cash advance facilities.

The Payday Loan Act of the Code of Virginia enabled short-term loan establishments to enter into the Commonwealth to conduct business in 2002. Since that time, there has been a dramatic influx of such facilities within towns and cities throughout Virginia. More concerning is that these businesses tend to strategically congregate to certain geographic locations within localities; and, primarily within areas that are more densely populated by low-income or minority persons. This trend can be noted in the City of Winchester, as well.

Short-term loan establishments have been the subject of concern and heightened scrutiny in recent years due to a growing notoriety of predatory lending practices. State and local lawmakers across the country have concluded that lending and marketing practices of short-term loan establishments can result in serious financial hardships to some of its citizens, particularly in elderly and low-income citizens, from which they cannot extract themselves, perpetuate poverty and perpetuate the dependency upon public financial assistance, housing, health care and social services. It has further been concluded that the proliferation over the past several years of short-term loan establishments in certain areas of localities cause or contribute to the deterioration of the localities' commercial and residential areas.

So as to further protect the public health, safety, and welfare of the citizens, as well as, promote economic and social sustainability, this text amendment has been prepared to define short-term loan establishment and outline permitted use provisions for consideration and adoption. Specifically, the amendment would permit such establishments to be considered as conditional uses within the Highway Commercial (B-2), Central Business (B-1), and Commercial Industrial (CM-1) Districts, with a requirement that the use could not be located within 500' of another such use or a residential zone. The amendment also distinguishes these establishments from banks and financial institutions that are otherwise provided for in the Ordinance.

Chairman Adams opened the public hearing.

No one spoke about the request.

Chairman Adams closed the public hearing.

Chairman Adams agreed that it is important to distinguish between banks and these types of businesses.

Commissioner Talley moved to forward TA-10-21 as identified in Draft 1, dated 1/15/2010, to City Council recommending approval because the amendment represents good planning practice and serves the best interests of the community by further protecting the public's welfare.

The motion was seconded by Vice-Chairman Shore

Motion passed 5-0.

NEW BUSINESS

A. Comprehensive Plan Discussion

Mr. Youmans and Mr. Deskins spoke about proposed land use in the previous work session and how it could affect certain areas within the city. It was previously suggested that the east side of Shawnee Drive would be a good place for an arena of some sort. Mr. Youmans explained that the proposal may have been premature. Herd Planning is a consulting company assisting the Planning Department with the update to the Comprehensive Plan. They have suggested more suitable alternatives for the arena proposal and also have given other suggestions for mixed use redevelopment.

Mr. Deskins explained how the same consulting company is also working on a parallel economic development and master plan. They have identified six sites within the city for mixed use redevelopment, one being the Henkel Harris property on the east side of Shawnee Drive. The idea is to create a secure data center. Another site of interest is the Berryville Ave area including the Gold's gym shopping center and the old Martins shopping center. The idea is to construct a 25,000 square foot hotel facility and a 150,000 sq ft conference/arena space. All the data suggests there will be an increase in demand for hotel rooms by 2013. This area has easy access to Interstate 81 and Route 7 which makes it ideal. The owners of these locations are willing to work with the city on coming up with a plan to redevelop these areas. Mr. Youmans added that this is an entry corridor into the city that is a straight shot to the downtown area. Mr. Deskins concluded by saying that he wanted the public to know that there is a vision out there for these areas.

Chairman Adams stated that he was excited that the conference/arena idea had been revisited. He felt the Berryville Avenue location was superior to the one near Shawnee Drive. He felt it was important to state that this is a roadmap of where the City wants to go, not what is going to happen within the next two years.

Mr. Youmans reminded everyone of the public input session to be held at Handley High School next Wednesday night, February 24, beginning at 6:30pm.

ADJOURN

With no further business to discuss, the meeting was adjourned at 3:54 pm.

Nate Adams, III, Chairman