

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, June 15, 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 McKannan, Slaughter, Sublett, and Wiley (6)
ABSENT: Commissioner Talley (1)
EX-OFFICIO: Councilor Willingham and City Manager O'Connor
FREDERICK CO LIAISON: Commissioner Mohn
STAFF: Diem, Moore, Youmans, and Walsh
VISITORS: Gary Oates, Scott Rosenfeld and Matt Reges

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

APPROVAL OF MINUTES

Vice-Chairman Shore moved to approve the minutes of the May 18, 2010 meeting as presented. The motion was seconded by Commissioner Sublett.

Motion passed 6-0.

CORRESPONDENCE

A revised agenda packet was presented that included:
Item 3G - Comprehensive Plan- Chapter 2 Review
Item 3H - City Code Discussion Regarding Truck Routes

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

Chris Mohn, representing the Frederick County Planning Commission, stated that at their last meeting they forwarded a comprehensive plan amendment for expansion of the sewer and water service area and land use text changes for facilities at Rock Harbor golf course. The deadline for property initiated comp plan amendments was June 1st and only one request was submitted. They will be holding a joint work session with the Board of Supervisors July 7th to review that request.

PUBLIC HEARING – New Business

CU-10-255 Request of Scott Rosenfeld for a conditional use permit for nonresidential parking in a front yard at 825 Whittier Avenue (*Map Number 171-01-16A*) zoned Residential Office (RO-1) District and 812 Amherst Street (*Map Number 171-01-16*) zoned RO-1 District with Historic Winchester (HW) District overlay.

Commissioner Slaughter recused himself.

Mr. Youmans presented the request to permit off-street parking situated between a proposed office building and the Whittier Ave frontage of the consolidated lot that will have frontages along both Whittier and Amherst Streets.

The applicant's engineer, Mr. Gary Oates, outlines the request and the reasons for requesting it in a letter dated December 11, 2009, although the application for this request was not submitted until April 26, 2010. This request was an anticipated next step following the change from LR to RO-1 of the underlying zoning of the two parcels along the west side of Whittier Ave that was approved by Council on May 11, 2010.

The property known as 825 Whittier Ave has historically appeared from the street to function as the rear yard of 812 Amherst Street and is owned by the same entity. The existing RO-1 zoning permits office uses by right. The Conditional Use Permit is only needed to permit the placement of some parking area between the proposed office building and what will become the second frontage of a consolidated parcel comprising 812 Amherst St and 825 Whittier Ave.

Proffers accepted by City Council with the approved rezoning address the impacts of access management by means of shared driveway connections and interparcel connectivity. The conceptual site plan submitted with the CUP request depicts a single shared access along Amherst Street that would replace the existing two driveway serving the CPA office at 830 Amherst Street and the current residence at 812 Amherst Street. Parking for the CPA would remain in the rear yard of that parcel. Parking for the office complex on 812 Amherst Street would include some spaces along the west side of the building with the remainder of the spaces (approx. 15) situated along both sides of a drive aisle connecting out to Whittier Ave.

The intent of the provisions discouraging the placement of parking in the front yard was focused on the visual impacts of large asphalt areas between commercial buildings and the roads serving as major tourist entryways. No parking is proposed between the building and the Amherst Street frontage, consistent with the green front yards on properties to the east and west.

Chairman Adams opened the public hearing.

Gary Oates of Greywolfe Land Surveying, representing Mr. Rosenfeld, explained that the request is consistent with what was presented at the public hearing for the rezoning and is also similar to the request for 804 Amherst Street. He stated that he would be available for questions.

Chairman Adams closed the public hearing.

Commissioner Sublett asked if the driveway to the accounting office will be re-sown with grass. He understood that it is included in the site plan approval on the adjacent property, but he did not think that having the double driveways there would be a good idea. He asked if that would be part of the conditional use application.

Mr. Youmans stated that it is tied in with the conditional use.

Chairman Adams asked Mr. Youmans to clarify that without the CUP the applicant will not have access to Whittier Avenue or the CPA site.

Mr. Youmans stated that was correct.

Chairman Adams stated that he understood that the site plan approval later one would allow input to site parking. He asked how many total parking spaces will be subject to the CUP.

Mr. Oates stated that there will be between 39 to 42 for the whole site. The Whittier Avenue side will contain 15 spaces.

Vice-Chairman Shore asked if traffic would be able to go in and out on Whittier Avenue.

Mr. Oates said that it would.

Vice-Chairman Shore moved to forward CU-10-255 to Council recommending approval as generally depicted on the conceptual site plan based upon a finding that the parking layout will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be injurious to the property or improvements in the neighborhood, subject to the following:

- 1. Approval and Recordation of a Minor Subdivision to consolidate 812 Amherst St and 825 Whittier Ave into a single parcel.*
- 2. Site plan approval*

The motion was seconded by Commissioner Wiley

Motion passed 5-0-1 (Commissioner Slaughter abstained.)

TA-10-306 AN ORDINANCE TO AMEND ARTICLE 6 OF THE WINCHESTER ZONING ORDINANCE TO ADD RESTAURANTS AS USES PERMITTED WITH A CONDITIONAL USE PERMIT IN THE RESIDENTIAL OFFICE (RO-1) DISTRICT

Mr. Moore presented the privately sponsored text amendment that would allow for restaurants to be considered as conditional uses in the RO-1 District.

In a letter dated May 21, 2010, the applicant proposed restaurants being added as conditional uses within the RO-1 District. The applicant proposed additional requirements that would need to be met as prerequisites for consideration, including location within a CE District overlay, increased minimum side and rear yards of 35 feet, and a minimum lot area of 25,000 square feet.

RO-1 zoning is located primarily along three corridors in the City: a large portion of Amherst St, including a number of properties adjoining the corridor; portions of Cedar Creek Grade; and portions of S. Pleasant Valley Road from E. Cork St to Millwood Ave. Otherwise, there is a small stretch of RO-1 along S. Stewart St, the conditionally zoned Grafton site on Bellview Ave, and a conditionally zoned strip of vacant land south of the proposed E. Tevis St extension.

The RO-1 District is intended as a transitional district from residential uses to other uses along major streets. The proposal for the use to be considered through a conditional use permit process would allow for careful consideration on a case-by-case basis of any proposed restaurant in the district.

Through proposing additional prerequisite requirements, the applicant has attempted to further limit where the use could be considered. The majority of the three primary corridors containing RO-1 zoning are already within the CE overlay. The linking of the primary land use with an overlay intended to regulate aesthetics does not appear to add to the proposal. The increase of minimum side and rear yards to 35', otherwise 10' and 25', respectively, and lot area to 25,000 sq ft, otherwise 20,000 sq ft also do not appear to add significantly to the proposal. A minimum lot width of 100' would still apply, as would increased yard requirements adjacent to any residential zoning. Again, each proposal and its potential impacts would still be evaluated on a case-by-case basis as a conditional use.

Two draft versions of the amendment proposal are included for consideration. Draft 1, dated 5/21/2010, is a formatted version of the proposal as originally submitted by the applicant. Draft 2, dated 5/24/2010, removes the additional requirements and would simply add restaurant use as one that could be considered as a conditional use in the RO-1 district.

Chairman Adams opened the public hearing.

Gary Oates of Greywolfe Land Surveying agreed with staff that restaurants are not appropriate next to residential subdivisions. They could have asked to rezone it to B-2; however they felt this would be a better avenue that would still allow for a public hearing and get the neighborhood involved. Drive through restaurants creates a much higher traffic count. This would be a sit down type of restaurant with no take out.

Chairman Adams closed the public hearing.

Commissioner Wiley stated he was concerned with tightening the restrictions on current zoning. Considering the economic situation, he felt that the last thing that they should do is restrict opportunities for businesses to be established.

Mr. Moore explained that the applicant is proposing some additional requirements. Staff did not see an issue with these requirements based on the fact that each proposal would come forth as a CUP and would be reviewed on a case by case basis.

Chairman Adams stated that given the RO-1 district as it has been set up, the question is whether or not a restaurant, whatever the form, should go in there. He read from the Ordinance, which explained the intent of the district. Based on that information, he stated that the only area where this amendment would apply would be the Amherst Street corridor. He questioned opening up the RO-1 district to restaurants especially in a Corridor Enhancement district. He stated that those districts were created because those areas are unique to the city. He stated that he understood the need for business development and that is the reason for the RO-1 district, but it specifies like uses, not something that belongs in B-2. A restaurant is an intensive use that would have a huge impact on a residential neighborhood.

Commissioner Slaughter pointed out that the applicant agreed that there are very few instances where a restaurant would fit in the RO-1 district. He stated that in that case, most of the applications that would come through would be denied and place an unneeded burden on staff.

Mr. Youmans stated that it would be harder, but to keep in mind that most national chains would not want to go into those areas. It falls in line with the comprehensive plan focusing less on use and more on design.

Chairman Adams stated that he would feel better if it was laid out how you want to have it. He suggested that if more intensive uses are wanted in this location, then rezone it to something more appropriate. RO-1 was designed to protect the impact on residences.

Commissioner Sublett explained that rezoning it to B-2 would take away the control on the area, giving drive throughs as an example. He asked that everyone keep in mind that RO-1 requires parking to be in the back creating a natural buffer with the setback requirement.

Commissioner Slaughter stated that if the Commission is in agreement with restaurants going in RO-1, that a CUP would be a good way to manage it. Rezoning would allow all restaurants, which is not the intent.

Mr. Youmans stated he was not in favor of spot zoning.

Chairman Adams agreed that a CUP allows control. The key is the type of restaurant.

Commissioner McKannan listed the current permitted uses in the RO-1 district, stating that those uses flow into the community, meaning that they are not designed to attract people into them. Business such as restaurants will need to be seen from the roadway.

Chairman Adams added that the intent of the district is not to offer the sale of merchandise on premises. He reiterated that the question is should restaurants be allowed in RO-1, because that is the idea of a restaurant.

Commissioner Wiley stated that allowing restaurants in the RO-1 seems like a decision that will lead to trouble later on. He was inclined to leave it as it is.

Chairman Adams reminded the Commission that its decision was a recommendation to City Council.

Commissioner Sublett moved to forward TA-10-306 to City Council recommending approval as identified in Draft 2, dated 5/24/2010, because the amendment represents good planning practice by promoting economic development while allowing for case-by-case consideration of individual proposals and any potential associated impacts.

The motion was seconded by Commissioner Slaughter.

Vice Chairman Shore stated that he thought the discussion indicated that they wanted to exclude drive-throughs.

Vice-Chairman Shore moved to amend the motion to include the exclusion of drive-throughs from consideration.

The motion to amend failed for the lack of a second.

Chairman Adams stated that a favorable recommendation would promote economic development which he had no problems with. However, he did not think that a restaurant in this particular category was consistent with the category.

The main motion failed 2-4. (Chairman Adams and Commissioners McKannan, Slaughter and Wiley in opposition)

NEW BUSINESS

Motion to initiate: **TA-10-247** AN ORDINANCE TO AMEND AND REENACT ARTICLES 14, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO CERTIFICATES OF APPROPRIATENESS

Vice-Chairman Shore moved to initiate TA-10-247 pertaining to Certificates of Appropriateness and to schedule a public hearing on the amendment.

Motion was seconded by Commissioner Wiley

Motion passed 6-0.

Motion to initiate: **TA-10-332** AN ORDINANCE TO AMEND AND REENACT ARTICLE 17 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO NONCONFORMING USES

Commissioner Slaughter moved to initiate TA-10-332 pertaining to nonconforming uses and to schedule a public hearing on the amendment.

Motion was seconded by Vice-Chairman Shore

Motion passed 6-0

Motion to initiate: **TA-10-333** AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ASSISTED LIVING FACILITIES

Commissioner Slaughter moved to initiate TA-10-333 pertaining to assisted living facilities and to schedule a public hearing on the amendment.

Motion was seconded by Commissioner Sublett

Motion passed 6-0

Motion to initiate: **TA-10-334** AN ORDINANCE TO AMEND AND REENACT ARTICLES 20 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE BOARD OF ZONING APPEALS

Vice-Chairman Shore moved to initiate TA-10-334 pertaining to the Board of Zoning Appeals and to schedule a public hearing on the amendment.

Motion was seconded by Commissioner Slaughter

Motion passed 6-0

Motion to initiate: **TA-10-337** AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 3, 4, 5, 5.1, 6, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FAMILY DAY HOMES

Commissioner Wiley moved to initiate TA-10-337 pertaining to family day homes and to schedule a public hearing on the amendment.

Motion was seconded by Commissioner McKannan

Motion passed 6-0

Motion to initiate: **TA-10-340** AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 8 AND 10 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS AND USE PROVISIONS FOR BODY-PIERCING SALONS AND TATTOO PARLORS

Commissioner Slaughter moved to initiate TA-10-340 pertaining to body-piercing salons and tattoo parlors and to schedule a public hearing on the amendment.

Motion was seconded by Commissioner Wiley

Motion passed 6-0

Commissioner Sublett left the meeting at 4:15pm.

City Code Discussion – Truck Routes

Mr. Youmans explained that in light of the changes downtown and the conversion of two-way traffic, there is no good reason for thru truck traffic to come through downtown Winchester. City Council has been contemplating this for a number of years. The routes are already posted on I-81 and 37 and this will solidify that. With that, he presented two alternatives. One is to retain thru truck routes on Fort Collier Rd and Valley Avenue and the other is to eliminate them all unless they are making a delivery. Mr. Youmans went on to discuss the different truck definitions.

There was some discussion as to the restrictions on the size of trucks, especially in the downtown area. Commissioner Slaughter pointed out that that some smaller trucks would fall under the current definition. He suggested that it be better defined.

Mr. Youmans stated that he would check with the City Attorney to see if the size of the trucks can be considered in Old Town.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:39PM.

Nate Adams, III, Chairman