

DRAFT
PLANNING COMMISSION
MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, July 17, 2012 at 3:01 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 3:01 p.m.

PRESENT: Chairman Dave Shore, Commissioner Kevin McKannan, Commissioners Stephen Slaughter Jr., Jennifer Beatley, David Smith and Beau Correll (6)

ABSENT: Vice-Chairman William Wiley (1)

STAFF: Planning Director Tim Youmans, Planner Will Moore, Acting Director Zoning & Inspections Aaron Grisdale and Secretary Paula Le Duigou (4)

GUESTS: Ron Mislowsky, John Barker, Nameeta Saheri

Approval of Minutes

Approval of the June 19, 2012 minutes was deferred to the August 21, 2012 meeting.

Correspondence

Mr. Youmans advised the Commissioners of a revised agenda, changes to the staff report, and handouts.

Citizen Comments

None

Report of Frederick Co Planning Commission Liaison

Mr. Mohn stated that the Frederick County Planning Commission had not had a meeting since the last City Planning meeting, and that there was one scheduled for July 18, 2012. He said that they had a Conditional Use application for a telecommunications facility and an ordinance amendment.

Public Hearings

CU-12-270 Request of Oakcrest Properties, LLC for a conditional use permit for conversion of ground floor nonresidential use to residential use at 29-31 and 33-35 East Boscawen Street (*Map Numbers 193-02-A and 193-01-M-16*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

Mr. Youmans made a correction to the title of the second CUP in the staff report.

Mr. Youmans presented an overhead photo of the location and the proposed interior floor plan, with the parking located at the rear of the structure.

The request is for Conditional Use Permit (CUP) approval under two sections of the Zoning Ordinance pertaining to conversion of nonresidential floor area to residential use. The first CUP request specifically pertains to the residential conversion of the ground floor space in the existing buildings on both properties. The second CUP is needed to permit one of the 1-bedroom residential units on 33-35 E. Boscawen Street to be below the absolute minimum floor area requirement of Zoning Ordinance and to allow the average minimum floor area for all 1-bedroom units to fall below the minimum standard.

The two adjoining properties formerly housed the City's Social Services Department and are situated along the south side of E. Boscawen St across from City Hall. The properties and all adjoining properties are zoned B-1 with Historic Winchester (HW) overlay District. Rouss City Hall across the street is zoned Education Institution and Public (EIP) and is not subject to HW District provisions. The subject stretch of E. Boscawen St has some commercial use, but is primarily characterized by office use including Shenandoah University, the EDC, City Hall, and private law offices.

The sites fall within the Town Run Flood District and are also situated within the Secondary Assessment District. They are also within the 100% parking exempt district.

Mr. Youmans stated that BAR approval would not be required because the applicant is seeking tax credits from the Department of Historic Resources.

The larger project for the two sites includes some office space in addition to the 10 multifamily units proposed. The applicant is proposing to retain two parking spaces in the rear courtyard which can be accessed via a bridge over Town Run that then connects to a driveway leading to S. Cameron St across adjoining property. About half of the existing paved and gravel courtyard would be landscaped. The resulting green area will probably be deficient of the requirement in Section 19-5-6.1 of the Zoning Ordinance, but the BAR can recommend approval of a lesser amount and the Planning Commission or staff can approve a lesser amount.

Mr. Youmans stated that there was a need for a recommendation from the BAR even though they were not doing the architectural approval, and if the Commission were agreeable to it, staff would suggest that the site plan and recommendation from BAR be handled administratively if both the Planning Commission and City Council look favorably on this request.

The one ground-floor dwelling at 29-31 E. Boscawen St would be accessed via a new doorway directly to Boscawen St. Two of the upper story apartments at 33-35 E. Boscawen St would be accessed via an internal stairway connecting down to the Boscawen St common vestibule that also serves the proposed OTDB offices. The remaining 7 units would have access only to the rear courtyard that does not have direct access to Boscawen St. The CUP requests focus only on

the residential use, specifically the ground floor conversion and the creation of some 1-bedroom units that fall below the absolute and/or minimum floor area standards. Comments for these two CUP are addressed separately below.

CUP for Ground Floor Conversion to Residential Use per Section 9-2-16

The first CUP pertains to the conversion of the former government office space to residential use. This primarily applies to the western property at 29-31 E. Boscawen St where the ground floor will contain one 2-bedroom dwelling unit on the ground floor. This structure has an exterior appearance that resembles a dwelling in that the window openings are typical of a dwelling rather than a commercial storefront. The building currently has no doorway to Boscawen St since it had been modified many years ago to have internal access through the adjoining building to the east. A new residential-scaled entry door is proposed to serve access into the one dwelling unit on the ground floor. No bedrooms are situated to Boscawen St frontage. The Planning Director has determined that this segment of one-way Boscawen Street does not represent a MAJOR commercial street and would suggest that City Council could find the one ground-floor residence at 29-31 E. Boscawen St to be AS SUITABLE as nonresidential reuse.

The first CUP also applies, to a very small degree, to the ground-floor conversion of the former government offices on the eastern property at 33-35 E. Boscawen St since the parcel does have a very small finger of frontage out to S. Cameron Street. One ground-floor apartment would be oriented to S. Cameron Street although no building entrances are proposed in this area. Also, the converted building is recessed back considerably further than the two adjoining Cameron St buildings—the Odd Fellows Building to the north; and the law offices of Adams & Jones to the south. Most of the grassy lawn area between the proposed dwelling unit and Cameron St is owned by the entity owning the building to the south. The subject stretch of S. Cameron St does not represent a MAJOR commercial street as determined by the Planning Director as it pertains to this proposal. Staff would suggest that City Council could find the one ground-floor residence at 33-35 E. Boscawen St to be AS SUITABLE as nonresidential reuse.

CUP for Unit Floor Area Below Minimums Section 9-2-20b

The second CUP is needed to permit one of the five 1-bedroom units to have 561 square feet of floor area where the absolute minimum otherwise calls for 575 square feet. Because of this smaller unit as well as three out of the four other 1-bedroom units being below the 700 square foot average minimum standard, there is a need for approval of a 644 square foot average floor area where the 700 square foot minimum applies. The Zoning Ordinance allows CUP-based relief of the absolute and average minimum floor area requirements for conversions of existing buildings within the Primary or Secondary Assessment District downtown. Because this project entails existing buildings within the Secondary Assessment District, City Council can approve the substandard unit sizes.

The 561s.f. unit situated at the far rear on the second floor of the existing building on 33-35 E. Boscawen St. is the only unit out of the ten proposed units not meeting the absolute minimum floor area standard. There is extensive air and light provided to this unit via three double windows. It would otherwise meet minimum occupancy standards under Building Code and occupancy requirements elsewhere in the Zoning Ordinance.

The 644s.f. average minimum applicable to all five of the 1-bedroom units is 8% deficient of the average minimum standard. Only one of the 1-bedroom units is on the ground floor and it does not face out to either of the public streets. It should be noted that each of the five 2-bedroom units easily comply with the 725s.f. absolute minimum floor area requirement- the smallest being 850 square feet. Collectively, the five 2-bedroom units, at an average of 1,065 s.f., easily comply with the 900s.f. average minimum standard.

Mr. Youmans stated that staff had no objections to the request because it was a good reuse of the building and because of the location of some of the existing walls they were trying to preserve, there was a basis for supporting it. He stated that the units would of course have to meet all the standards for occupancy, and any provisions in terms of minimum unit size under the building code.

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.

Mr. Youmans stated that it also needs to be based on City Council finding that the four proposed ground floor residential units are suitable or preferable to other permitted uses, meaning non residential uses.

Mr. Youmans stated that a portion of the rear courtyard would have the hardscape removed and replaced with landscaping.

Mr. John Barker, applicant, made himself available to the Board for questions.

Chairman Shore opened the public hearing

With no comments forthcoming Chairman Shore closed the public hearing

Commissioner McKannan asked where the tenants would park.

Mr. Youmans stated that this property was in the parking exempt district; therefore they did not need to state what the parking arrangements would be.

Commissioner McKannan asked about the lighting in the rear of the building in the area of the courtyard.

Mr. Barker stated that the plan would be to have down lights that come off of the side of building that were completely covered in order to lessen upward lighting.

Mr. Barker addressed the parking question and stated that in the past they have included parking in the garage in the monthly rent.

Chairman Shore asked about the desirability of the downstairs residential unit. He said that in the past City Council had been hesitant to approve units that would take the place of retail office usage and he was wondering about the rationale behind the decision.

Mr. Barker stated that there were schools of thought; marketability, it's much easier to rent an apartment than a commercial space, especially one that's a few blocks off the Mall; and secondly, the building was originally a single family home while the other had always been commercial.

Mr. Barker said that at one time the building had been used by the Winchester Star which had incorporated the single family home into its offices.

Mr. Barker stated that they wanted to reincorporate the front door into the single family façade to take it back to its original purpose and give a completely different look from the one next to it.

Commissioner Slaughter said that as a whole the project looked good to him, the minimum square foot requirements were fine, and the rear area as residential as well, but he would have preferred that the front portion be commercial. He said that he understood the market drive to not have it so, but he asked the applicant to reconsider having the front be commercial.

Mr. Barker said that he would go back and raise that question again, but knowing the difficulties that they have had leasing commercial spaces, especially on the mall, it would be very tough in the current location.

Mr. Barker said that he did not believe that anyone wanted to see an empty space.

Commissioner Smith asked Mr. Youmans asked if the vote being forwarded had to do with the residential only.

Mr. Youmans said that the non residential use don't require a conditional use.

Mr. Youmans said that the eastern building has the larger, more commercial appearance, while the other a residential feel.

Mr. Iman asked if the building as it sits today is designed as residential or commercial on the first floor.

Mr. Barker said that it was commercial.

Mr. Iman stated that a kitchen would have to be installed.

Mr. Barker said that it would and that at this time the only access to that building was through the commercial structure. He said that from the inside you could see where they knocked an opening in the wall to connect the two structures.

Mr. Iman thought that the fact that the one already had plumbing may have been the driver behind the decision, but Mr. Barker stated that there was nothing in either building that would be retained.

Mr. Barker said that in the 50's and 60's both buildings had been redone as separate offices and individual rooms. He said that the only kitchen in the building is on the second floor of the industrial part.

Commissioner Beatley moved, seconded by Commissioner Smith, that the Commission forward CU-12-270 to City Council recommending approvals per Sections 9-2-16 and 9-2-20(b) of the Zoning Ordinance because the proposal, as submitted, 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. The approval is based upon City Council finding that the 4 proposed ground-floor residential units are as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

- 1. Close adherence to the submitted elevations and floor plans;*
- 2. DHR approval of the exterior modifications in lieu of local Board of Architectural Review (BAR) approval of a Certificate of Appropriateness;*
- 3. BAR review and recommendation of required green area per Section 19-5-6.3 of the Zoning Ordinance; and,*
- 4. Staff review and approval of the site plan including any waivers of required green area.*

The motion passed unanimously.

CU-12-319 Request of Patton, Harris, Rust & Associates on behalf of Papermill Road, LLC for a conditional use permit for motor vehicle painting, upholstery, body and fender work at 2641-2645 Papermill Road (*Map Number 311-01-14*) zoned Commercial Industrial (CM-1) District.

The request is to allow specifically for the building known as 2645 Papermill Rd on the subject property to be converted to auto service use consisting of one or more of the intensive repair operations that require a CUP.

The subject property, along with surrounding land to the north, east, and south, is zoned CM-1. The front building on the subject property is currently used as an equipment rental business. The property to the immediate north contains a sheet metal business. To the south are a small, nonconforming lot with a commercial structure and then a large lot containing a beverage distributor. Land to the east on the opposite side of S Pleasant Valley Rd is vacant, but subject to an approved site plan. Land to the northeast on both sides of S Pleasant Valley Rd has been subject to recent development, including the sites of Panera and TGIFriday's. The CSX railroad runs along the rear of the property, with the EIP-zoned Frederick Douglass Elementary property to the west of the railroad.

The request is to allow for intensive auto repair operations in Building A (2645 Papermill Rd). Such operations include motor vehicle painting, upholstery, body and fender work. These operations have been identified historically as having greater potential impacts on neighboring

properties, particularly with noise and vibration. Additionally, such operations generally involve storage of a number of inoperable vehicles. Building A is the building located most central to the property. It sits behind Building D, which is the closest to S. Pleasant Valley Rd. and currently contains an equipment rental business. Buildings B and C are located to the rear of the property, near the railroad right-of-way.

There are concurrent requests to the BZA for yard variances associated with the subject property; however, these requests do not directly pertain to this conditional use request. These variances, if approved, would allow for a full-range of by-right uses (including less intensive auto services) in buildings B and D. The building that would contain the use subject to this request (Bldg A/2645 Papermill Rd) meets applicable setback and yard requirements.

The applicant has prepared a cursory site plan in conjunction with this application, primarily for the purpose of documenting existing/proposed uses, existing conditions, and the proposed location of a vehicle storage area. In the attached letter of intent, the applicant acknowledges that, if approved, a detailed site plan will be necessary to implement changes in use and to the site that would be associated with the conditional use and any other by-right uses.

Building A is generally well-screened from the newer and proposed developments to the northeast and east by Building D and the neighboring property to the north. There is an existing vegetative buffer to the west of Building C and the proposed vehicle storage area. Building B is built to the rear property line. Additionally, there is a row of mature evergreens on the school property on the west side of the railroad right-of-way. Mr. Moore stated that notification has been sent to the school pertaining to the request, and staff has had no response at this time. There are no increased buffering or screening requirements to the similarly zoned properties to the north and south. However, any inoperable vehicles on the site (whether associated with this use or less intensive, by-right auto service use) would need to be stored either inside a structure or otherwise screened from view, most likely in the vehicle storage area identified on the cursory plan. The required screening would need to be identified as part of the subsequent site plan, along with other typical aspects such as landscaping, lighting, and parking.

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.

Mr. Moore stated, in reference to the conditions suggested by staff, that the applicant engineering firm, was doing this on an initial basis for the purchaser of the property so they did not have a contractor yet or a full site plan. He said that the submission was sufficient at this time, and that the applicant would come at a later time with a full site plan.

Mr. Moore said that item two and three was language being reiterated from the ordinance. He said the ordinance section that defines the conditional uses and states the requirements, such as the service of vehicles, must take place in a structure that is covered on all sides and that inoperable vehicles must be contained in a building while awaiting repair.

Mr. Moore stated that item number two specifically designates on the site plan what one building would be appropriated for this permit. He said that if they wished to expand their business to include body work that would require them to return to the Planning Commission for approval.

Commissioner Beatley asked about fence height recommendations.

Mr. Moore stated that within condition number three there is a definition of the six foot height requirement and type of fence that could be used.

Commissioner Beatley stated that she was concerned that a six foot fence would not be high enough to cover larger vehicles.

Mr. Moore said it would probably not be sufficient for covering larger vehicles and his guess was that the size of the building would preclude them from working on larger vehicles.

Commissioner Beatley asked if they would service smaller vehicles then, and Mr. Moore felt that they would.

Commissioner McKannan asked if the building was constructed of cinder block.

Mr. Moore said that it was.

Ron Mislowsky stated that within the application they specify that any vehicles waiting for repair are to be stored within the building. He said that the reason that the fenced in area was there was because in order to show as much information as they knew about, the back building will have a change of use from storage to auto service, and it is envisioned that that would be a parking lot for those cars.

Mr. Mislowsky stated that if the vehicles are inoperable, they understood that they need to be screened, but that would be a site plan issue as they are allowed uses.

Mr. Mislowsky stated that the screened area was intended for the back use of the change in use because that will probably become some sort of office/auto service. He said that building A was for the body repair and the vehicles would be stored within that building as well.

Commissioner Slaughter said that he knew they would get more detail with a site plan. He asked if there was a plan to enhance the property, as it was a little rough looking currently.

Mr. Mislowsky stated that he thought that the new owner will have more interest in it than the current one. He said that the owner will also operate his business there which usually makes a difference.

Commissioner McKannan asked if the buildings currently located on the parcel would remain.

Mr. Mislowsky said that the plan right now is that they will remain and he would use what was there.

Chairman Shore opened the public hearing

With no comments forthcoming, Chairman Shore closed the public hearing

Commissioner Slaughter stated that it was a straightforward request and was an opportunity to improve the property. He said that obviously they would get more details with the site plan when it would be submitted, but overall he liked the concept.

Commissioner McKannan said that any external impact, i.e., noise, would be contained within the cinder block building. He said that building B would probably give off more noise since it looked like it was a metal structure.

*Commissioner Slaughter moved the Commission forward **CU-12-319** 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. Submission, approval, and implementation of a site plan for the property;*
- 2. All service and repair of motor vehicles subject to this permit shall be within Building A/2645 Papermill Rd, which shall be enclosed on all sides; and,*
- 3. All inoperable vehicles and any damaged vehicles awaiting repair shall be contained within a completely enclosed building or within an area enclosed on all sides by screening meeting the requirements of Section 19-5-6.4d.*

Commissioner McKannan seconded the motion.

The motion passed unanimously.

CU-12-320 Request of Cogil Corporation for a conditional use permit for multifamily dwellings at 661-663 Millwood Avenue (*Map Number 253-03-A*) zoned Highway Commercial (B-2) District.

Mr. Youmans read the revised staff report to reflect the changes in the number of units requested.

The request by Sara D'Amato of Cogil Corp is for CUP approval of multifamily use on the upper level of the historic Winchester Woolen Mill building as part of a project to be known as the 'Mill at Abram's Creek'. The applicant proposes 8 units in the front building area and 7 6 units in the rear building area.

The site as well as all adjoining property is zoned Highway Commercial (B-2) District. Uses in the surrounding B-2 district include retail, lodging and restaurants. Land along the north side of present-day Millwood Avenue is zoned HE-1 and consists of open floodplain area on the Shenandoah University campus.

The subject site is partially within the Abrams Creek Flood District. Abrams Creek extends along the eastern boundary of the site with a substantial portion of the waterway situated within the boundaries of the site.

The request is consistent with the New Urbanism recommendations of the Comprehensive Plan to encourage higher density mixed use development and preservation of historic structures. While the site itself was not called out as a redevelopment site, the close proximity to Shenandoah University makes it attractive as an option for off-campus student housing and the existing building lends itself to adaptive reuse. Specific nonresidential uses on the ground floor have not been determined yet, but would need to comply with the use provisions contained in Section 8-2-20 of the Zoning Ordinance. The applicant did secure BZA approval of a variance to reuse the portions of the building situated within the 100-year floodplain, but did not yet secure variance of Total Project Area restrictions on density.

Floor Plans & Floor Area Calculations

The CUP applies only to the multifamily use proposed on the upper level of the building. The existing structure on the site is configured such that the front and center portion of the former mill are completely separated from the rear portion, thus resulting in an interpretation from the Building Official and Zoning Administrator that the two separate areas constitute two buildings with a common wall. The CUP provisions in Section 8-2-20 of the Zoning Ordinance allow a maximum of 8 units per building. The applicant is proposing a total of 8 units in the front building area. This consists of three 2-bedroom units and five 1-bedroom units. Six units are proposed in the rear building area consisting of one 2-bedroom units and five 1-bedroom units.

The applicant's updated letter dated July 10, 2012 references only the 8 units proposed in the front of the structure, but the request is for all 14 units. The updated floor plans dated July 11, 2012 clearly depict the four 2-bedroom units and the ten 1-bedroom units

In her letter, the applicant notes that all of the units comply with the 700s.f. minimum requirement for 1-bedroom units and the 900s.f. minimum requirement for 2-bedroom units. The floor plans are now annotated as to the floor area of each proposed unit, ranging from 619 s.f up to 1,270 s.f. in size.

Density

The 1.76-acre site would be large enough to support the 14 dwelling units if it had no floodplain encumbering it. The Density provision for multifamily in the B-2 zoning district allows up to 1 unit for every 3,500 square feet of Total Project Area. Total Project Area, by definition in Section 1-2-91.1 of the Zoning Ordinance excludes 100-year floodplain acreage and counts 50% of the portions of the site with slope in excess of 20%.

The site plan does not depict the boundary of the 100-year floodplain nor provide a calculation of the density based upon the percentage of the site not encumbered by floodplain. Visually, it is clear that the overwhelming majority of the site is within the floodplain with perhaps a third of the site not being in it. The site also has some steeply sloped areas, especially along the banks of

Abrams Creek itself. Staff has recommended that the applicant seek a variance of the Total Project Area restriction to allow for the 14 proposed units.

The floor plans clearly show multiple entrances to the upper-level apartments. Consistent with the Zoning provisions, none of the entrances are oriented to the front of the site. A related site plan exhibit dated June 13, 2012 depicts site improvements that will be undertaken in conjunction with the residential conversion of the upper level of the structure. The Site Plan depicts significant reduction of paved area on the site, including the removal of 3 parking spaces at the front of the site and approximately 9 parking spaces elsewhere on the site. Pavement is also being scaled back in areas where loading and truck maneuvering was accommodated with a prior use of the structure by the applicant's father as Gilliam Lumber Company in the 1990's.

Green Area

The removal of excess impervious area on the site is desirable given the location in the floodplain along Abrams Creek, a state-designated impaired waterway. Most of the pavement removal is proposed along the lower portion of the site on the east side of the structure adjoining Abrams Creek. Open Space calculations on the June 13th iteration of the site plan note existing green area at 27.73% of the site. That amount of green area would be in compliance with the 15% minimum required with the previously approved nonresidential uses, including the most recent use by Grafton School for offices and school use.

The plans note proposed green area amounting to 35.96% of the site, which is fully compliant with the 35% minimum associated with B-2 Multifamily use. A blended Green Area requirement that takes into account the 8,771 square feet of proposed retail use and 6,758 square feet of warehouse space on the lower level would render a Green Space requirement that is lower than the 35% applicable to the upper story residential use alone.

Mr. Youmans stated that the site at 1.75 acres is large enough to support the proposed 14 units, if all of the land area was credited to the density computation. He said that the Zoning Ordinance said that only land area that is counted as total project area goes toward the density computation and explicitly excludes flood plain acreage.

Mr. Youmans said that with a large portion of the site encumbered by flood plain, the area that is otherwise left over would only support about six units. He said that they have encouraged the applicant to pursue a variance from the BZA to allow for the fourteen units.

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.

Impacts

The proposed 14 apartments on the upper level of the structure represent a good reuse of what had become a blighted vacant structure. The proposal should not adversely impact the health, safety or welfare of anyone residing or working in the area and not be detrimental to public welfare or injurious to property or improvements in the area. Given the limited right-in/right-out

access to/from the site along the eastbound lanes of E. Jubal Early Dr (aka Millwood Avenue), the residential use is more sensible than permitted commercial uses that might otherwise depend upon easy access for customers unfamiliar with how to get in to and out of the site westbound along Jubal Early Drive.

With the lessened parking requirement, the applicant is reducing the environmental impacts associated with runoff from the existing paved areas of the site that flush directly into the impaired waters of Abrams Creek. Increased green area on the site together with extensive green area on the Toys R Us site to the west and south should provide a desirable environment for residential occupancy. The high percentage of 1-bedroom units will provide attractive housing in a renovated historic structure for young adults and college students and create minimal impacts associated with housing attracting school-aged children.

Phasing

The applicant may choose to phase the residential components of the project such that the 8 units in the front building would be completed and requested for occupancy prior to the 6 units in the rear building area. The site improvements depicted on the site plan, however, would be completed in conjunction with the first phase. The ground-floor nonresidential development may or may not coincide with the upper level residential occupancy of the building.

Chairman Shore asked why the project was reduced by one unit.

Ms. Sara D'Amato addressed the Board in response to this question and stated that the structure of the buildings, i.e., steel beams, caused them to reconfigure the layout of the floor plan to provide more desirably sized rooms.

Commissioner Slaughter asked how occupancies work with the number of bedrooms. He said that since this would be marketed toward college kids, he could envision more bunk beds and higher density.

Mr. Youmans stated that all residential units in the City are provisioned by the International Building Code that had been adopted by Virginia. He said that they would also be subject to the occupancy limitations in the local zoning ordinance so regardless of how many bedrooms are shown on the floor plan, and would be expected to adhere to them.

Ms. D'Amato stated that it would not be her intent to overload the building with a lot of students.

Mr. Tagnesi asked is the trash collection site would be located at both the south and west ends of the building.

Ms. D'Amato stated that it was her intention to place it at the rear of the building and out of sight.

Chairman Shore opened the public hearing

With no comments forthcoming, Chairman Shore closed the public hearing

Commissioner David Smith moved that the Commission forward CU-12-320 to City Council recommending approval per Section 8-2-20 of the Zoning Ordinance because the proposal, as submitted, 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. The approval is subject to the following:

- 1. Close adherence to the submitted site plan and floor plans;*
- 2. BZA relief of the limitation on density due to the Total Project Area definition regarding 100-year floodplain and steeply sloped areas; and,*
- 3. Staff review and approval of the site plan.*

Commissioner Slaughter seconded the motion.

The motion passed unanimously.

TA-12-227 AN ORDINANCE TO AMEND AND REENACT ARTICLES 1 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF AND APPOINTMENT OF THE ZONING ADMINISTRATOR

This publicly sponsored text amendment would amend the definition of the Zoning Administrator to allow for the City Manager to designate the position in lieu of City Council, and remove all references within the Zoning Ordinance of such City Council appointment.

As part of a review of the Zoning Ordinance provisions regarding the appointment of the Zoning Administrator, the City Manager has found a few areas that he believes are deserving of attention. Specifically, it is desired that the ability to designate the Zoning Administrator position should be devolved from City Council's authority to the authority of the City Manager.

The first revision is to amend the existing definition of the Zoning Administrator, to remove the language of appointment by the Governing Body, and replace it with the designation of the position by the City Manager. Additionally, the reference to the position being compensated or not has been stricken. This language is not consistent with current practices and therefore is being removed. The second revision as part of this text amendment is within Article 23 of the Zoning Ordinance, which removes the reference of the Zoning Administrator being appointed by the City Council

Mr. Grisdale stated that this request came from the City Manager to change the Zoning Administrator position from City Council appointed to the City Manager.

Mr. Iman said that some of the language being changed pertained to compensation for the position from one where it could be administered without compensation to one that could.

Commissioner Correll asked what the compensation rate was and would the City Manager make the determination as to what that would be.

Mr. Iman said that that was set out in the Class and Compensation Plan of the City and it was categorized in a certain established pay range. He said that he did not know what that was but that there was a minimum and maximum range.

Commissioner Smith asked where the City was in the hiring process for the position.

Mr. Iman said that there were four candidates that would be interviewed on July 30th.

Chairman Shore opened the public hearing

With no comments forthcoming, Chairman Shore closed the public hearing

Commissioner Slaughter moved that the Commission forward TA-12-227 to City Council recommending approval because it represents good planning practice by providing for the elimination of outdated Ordinance language and allowing for the City Manager to have the necessary authority to designate the Zoning Administrator.

Commissioner Beatley seconded the motion.

The motion passed unanimously.

OLD BUSINESS

Discussion (continued) – Temporary Sign Provisions

Mr. Youmans discussed the handout of Leesburg's Zoning Ordinance to show how one community has addressed their sign concerns.

Mr. Youmans stated that the Commission may want to look at the City's Statement of Intent while addressing this.

Mr. Youmans and the Board reviewed the parameters listed on the handout for possible consideration.

Commissioner Beatley asked if width was left out on purpose.

Mr. Youmans said that Leesburg had a specific width spelled out but most localities have a maximum area or maximum height.

Commissioner Smith said that he felt it would be a good idea to identify where signs should be located, particularly for stores that have signs that are located ½ a block away from their establishment to attract customers. He said that it should be in the vicinity of their business and a limit to how many can be out.

Mr. Youmans said that quantity was one of the things that was an identified parameter.

Mr. Youmans said that the City Manager had expressed a desire for staff to address temporary signage. He said that the focus was specifically outside of down town and beyond the special environment of Old Town Mall where they are permitted because of the location of the structures on the Mall.

Mr. Youmans said that this focus would be Berryville, Valley, and Millwood Avenues regardless of whether they are in an existing corridor enhancement district or not. He said that that would be in addition to what they were trying to look at here as a general provision for B-2, CM-1 and maybe the industrial districts, but not the Downtown B-1 district, probably not the RB district.

Mr. Youmans stated that there would need to remain special conditions in the Zoning Ordinance for Old Town and the Mall.

Mr. Iman said that when he and Mr. Grisdale had been looking at wind socks, the ones in the 45 block of the historic district were not illegal they were permitted to fly those types in the historic district which he found the most egregious violation of quality signage. He said that was what led to some of this discussion, particularly to temporary portable signage.

Mr. Iman said that that was one of the target areas that they were looking at and hoped to regulate in the historic district. He said that it was a shame to have signs that were not in keeping with the beautiful historic look of the City

Mr. Iman said that his second concern was in regard to the quantity of signs. He asked Mr. Youmans what the current limit was and the process for applying for them because it appeared to him that there was no limit and that an applicant could repeatedly apply and end up with a temporary sign that essentially became permanent with no limit per month or per year.

Mr. Youmans redirected Mr. Iman to Mr. Grisdale, who stated that the limitation for a sign that you could potentially have under a permit would be ten (10) days and that at any other point you could have another sign for ten (10) days, which would essentially equal ten (10) days per month.

Commissioner Smith asked if it stated that you had to have a different sign every time. He said that in essence you could have the same sign out for months at a time.

Mr. Youmans stated that today there is no limit to temporary signs, and staff would suggest that while there not be a limit to how many times a sign can be displayed per month or year, there would none the less be only one sign at any given time.

Commissioner Slaughter said that he wasn't sure that the issue was the signs themselves but that they are up there all the time and that the temporary signs become permanent. He said that maybe focusing less on the restrictions of the actual sign itself, so as not to stifle the creativity of a business, be very strict with the frequency and length of time that they are on display.

Commissioner Slaughter stated that if a business has a big sale or annual event going on, he felt that they should be able to advertise it but also be sure to take the signs down when it's over as

well. He said that he would focus more on less frequency, shorter amounts of time up, and less on that it has to be certain number of signs.

Commissioner Slaughter said that as a business owner he would like to have the ability to be creative, and he felt that they would find that businesses put a lot of money into temporary signage because it's a loophole to getting a permanent sign. He said that if someone can put a temporary sign up they may be less likely to spend money on nicer signs. He thinks that if they are restricted to the number of times the business owner may put better quality signs up.

Mr. Youmans said that this was the kind of feedback from the Commission that staff needed as to how they felt in terms of what parameters should be developed.

Mr. Youmans said that what he was hearing from the Commission was that they should limit the duration of the signs more than limit the size or quantity of the signs.

Commissioners Slaughter and Beatley agreed with that assessment.

Commissioner Beatley said that it appeared that Leesburg limited event signs to five per year and she felt that was too restrictive.

Commissioner Correll said that maybe it could be displayed a certain number of days per month.

Commissioner Beatley said that that would give a business a chance to decide what their focus may be in that particular month and advertise it.

Mr. Youmans said that this was in reference to temporary signage in addition to permanent, so many have a corporate sign and can advertise a special that day as well, and this was stuff that went beyond permitted signage.

Mr. Youmans referred to the Leesburg section concerning allocation and the quantity of signs allowed for any one business. He said that when he first read it he felt they were being quite generous.

Mr. Youmans read the section to the Commission and discussed the differences between it and the City's ordinance. He broke it down and stated that they have a limit on building mounted signs whereas the City has no limit, regulates the square footage, but that then makes it possible to have 100 signs or one larger sign alone, but then you get a freestanding sign and direction signs as well as your temp signs. Leesburg says that you can't have all of that but an and/or situation.

Commissioner Correll asked, pertaining to the scope of temporary signage, if it would relate to non business signage.

Mr. Youmans said that the City is restricted in terms of regulating based on content, but at the same time there are provisions in state code that say, for example, that campaign signs are permitted but that also limits how long they can be up.

Mr. Youmans said that the reality is there are campaign signs, real estate signs, signage for places of worship, so many different categories of temporary signage that the City, Frederick County and Leesburg all ready have in their ordinances definitions of what types of signs and regulations for each there and he felt that these distinctions needed to be kept.

Commissioner Correll agreed with Mr. Youmans.

Commissioner Correll said that the first thing that they needed to determine was what ill they were trying to address. He said that the problem he was seeing was that businesses had multiple or, for the lack of a better term, gaudy signs up front which detracted from the aesthetics of any given neighborhood.

Commissioner Correll said that in order to address that they must first delineate how to do it and to him that was to say that they should limit any sort of rehabilitative steps they take for the ordinance for business related signage because they shouldn't get into content and free speech. He said that if they limit the scope to business related signage that would be a good stepping off point.

Mr. Youmans said that there is a definition of signage in the ordinance -if it's advertising a product or a service. He said that as an example, if it's advertising a campaign or making a statement, they are not considered signs by the ordinance.

Mr. Youmans said that if it's not advertising a product or service and has say a butterfly on it, it's not a sign.

Commissioner Correll asked about yard sales.

Mr. Youmans said that it would be a sign and that the City previously did require permits for yard sale signs but that produced a ridiculous number of permits and signs. He said that there is still a regulation on the number of yard sale signs but there is very little way to regulate it.

Mr. Youmans said that this raises the question about whether a permit should be required and should there be minimum requirements for review and fee. He said that if you don't have a requirement for a permit, you take away the ability of the Zoning staff to regulate these things because without the permit they don't know when to advise people of what the standards are.

Mr. Youmans said that more than anything they would be advocating that regardless of what standards they come up with; there should be a simplified permit requirement.

Commissioner Correll asked what kind of administrative burden this would have on staff.

Mr. Youmans said that 25 years ago there were more yards sales than now.

Mr. Tagnesi asked if staff had considered creating a list of prohibited signs.

Mr. Grisdale said that the ordinance does have a list of signs such as inflatable signs, signs with a string of light bulbs as well as about 8-9 additional types listed that are prohibited in all districts.

Mr. Iman said that he was talking about temporary signs and that he felt that the ordinance did not address his concerns. He said that the reason he felt this was because temporary signs are allowed for legitimate businesses that have permitted, permanent signs all ready, so why are they allowed to put up unlimited temporary signage made of inferior quality.

Mr. Iman said that they should have restricted numbers and to make a list of appropriate uses. He said that with unlimited restriction they will just be everywhere, sometimes in front of a 250 year old building which detracts from the City.

Commissioner Smith asked where enforcement came in.

Mr. Iman said that enforcement will be difficult especially if there are an unlimited number of permits for temporary signs. He said that if there is a strict number, code enforcement can say that there is a permit and after 10 days it would have to be taken down, at which time a fine can be issued if it isn't removed in that time frame or a charge for the City if they have to dispose of it.

Commissioner Correll asked about if the use were limited to special events such as grand openings, closings, events that would not require a permanent sign or in cases of special sales that are not openings or closing and be able to display for no more than 10 days a month to cut down on their frequency.

Commissioner Slaughter said that he liked the direction Commissioner Correll was going, but rather than dictate the reason for the sign, set the number of times they can have it during the year.

Commissioner Correll said that he was in favor of a monthly basis with the business picking the days of the month they wish to use it. He said that by doing this it would cut down on the gaudiness factor of having it up all the time.

Mr. Youmans said that the Zoning Ordinance does specifically call out grand opening signs which are allowed in all the commercial districts, and the only provision is that they cannot be displayed for more than ten days at a time. He said that a similar provision addresses special sale signs and this is where beyond the grand opening sale or closing sale, it would be hard staff to say you cannot have a one year going out of business sale, it needs to have a shorter duration.

Mr. Youmans said that the thing that is regulated now is the duration of the sign, but the City does not limit the quantity, size and the number of times you can have it. He said that there is a way to enforce this with a permit but it cannot be done if there isn't one.

Commissioner Correll said one potential issue he could see coming down the pike later, was with fixed businesses, or brick and mortar, versus a temporary one, such as a tent for fireworks or vegetables.

Mr. Youmans said that they would qualify for temporary signs and there needs to be an accommodation for them.

Mr. Youmans said that one thing they do not want to do is have signs that are effectively billboards that advertise a business that isn't in the location of the sign. He said that one exception may be the old Town area because those signs on the mall have to be off premises, but elsewhere along the business corridors where there are fencing classes and the like, that a no brainer. If they are in the public right of way advertising a business not in that location, it's an automatic no go.

Mr. Youmans said that yard sale and real estate signs were an area that they would have to discuss. He asked how it should be handled, do they want to limit the number of signs that a realtor puts out if they are advertising a house that is five streets into a subdivision, is it reasonable to have them?

Mr. Youmans said that they would get into this type of minutia once they start discussing the number of signs that are allowed. He said that unfortunately this leads back to content.

Chairman Shore mentioned the cars with big signs that drive around town or the people that jump up and down on the side of the road.

Mr. Youmans said that he thought there was a law that stated that the City couldn't regulate things that go on in the public rights of way that are moving.

Commissioner Slaughter asked where they go from here.

Mr. Youmans said that they wanted to hear from the Commission today as to what is important in terms of parameters.

Commissioner Smith asked if staff wanted emails with suggestions.

Mr. Youmans said yes and he would email info to them to add their comments to.

Commissioner Smith asked about a timeline.

Mr. Iman said that it was up to the Planning Commission.

Commissioner Slaughter asked Mr. Grisdale if he had enough teeth now to keep things in line while they are working through this.

Mr. Grisdale said that he had the same control that he always had in terms of getting out and removing the temporary signs that are up. He said that without having a permit in place it makes it difficult to determine the amount of time they were up and when they should come down.

Mr. Iman asked if there were any regulations for the historic district.

Mr. Grisdale said that there weren't any special restrictions for the historic district but there are special permissions that are granted within the district but as far as temporary signs there aren't.

Mr. Youmans said that the ordinance does limit a grand opening or special sale sign on the B-1 district, which is where the historic overlay district is, so they are subject to the ten day limit regardless of whether they are in the historic district or not.

Commissioner Smith said that there are guidelines for temporary and permanent signs in the historic district.

Mr. Grisdale said that the portable signs have to meet the historic guidelines of the Board of Architectural Review, and in terms of portable signs the Old Town Development Board will need to review them as well.

Mr. Youmans said that staff could provide at the next work session an overview of the current provisions and that looks at the nuances in the historic district.

Commissioner Shore said that what is important to hear is the approach to administering so that it isn't made too difficult to utilize.

Mr. Youmans discussed the Frederick County Ordinance pertaining to signs.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:51 p.m.

Dave Shore, Chairman