

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, March 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 McKannan, Slaughter, Sublett, and Talley (6)
ABSENT: Wiley (1)
EX-OFFICIO: Councilor Willingham and City Manager O'Connor
STAFF: Youmans, Moore, and Diem
VISITORS: Petrona Argueta, Gary Oates, Frank Wright, Theodora Rezba, Joel Stowe, William Layman, Christopher Francis, Patricia Zontine, Scott Rosenfeld, Shyama Rosenfeld and Franny Crawford

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 February 16, 2010 meeting as presented. The motion was seconded by Vice-Chairman Shore.

Motion passed 6-0.

COMMITTEE APPOINTMENTS

Chairman Adams stated that he has not yet had the opportunity to seek input from the members of the Commission who want to serve on committees. He asked the Commissioners to consider what committees they may want to serve on and to let him know by the April work session. The appointments could then be handled at the regular meeting in April.

CORRESPONDENCE

A revised agenda packet was presented that included:
Item 3A, TA-10-111 – revisions to staff report and title of Ordinance based upon work session discussion
Item 2B, RZ-10-48 – a handout summarizing recommendations recently presented to City Council by the Council-appointed Historic Winchester District Design Guidelines Review Committee

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

A Frederick County Liaison was not present at the meeting.

PUBLIC HEARINGS – New Business

- A. **CU-10-37** Request of Petrona Argueta dba Mi Ranchito Restaurant LLC for a conditional use permit for nightclub use at 2018 South Loudoun Street (*Map Number 252-01-13*) zoned Highway Commercial (B-2) District.

Mr. Diem presented the request to expand the use and occupancy of an existing restaurant to include activities consistent with the definition of nightclub at 2018 South Loudoun Street. Within her letter of intent, applicant Petrona Argueta expresses her intent is to operate the nightclub use within the existing Mi Ranchito Restaurant on Friday and Saturday nights between 10:00PM and 1:30AM, featuring Karaoke and DJ entertainment. A dance floor will be provided for the patrons.

To maintain health and safety of the establishment, Ms. Argueta is pursuing training and coordination with the Virginia ABC, hiring (2) security guards, maintaining the exhaust equipment, and periodically scheduling inspections with the Fire Marshal's office.

Staff recommends that the Conditional Use Permit for nightclub use be forwarded to Council recommending approval by the Planning Commission. Additionally, there appears to be no need to establish maximum sound levels emanating from the establishment, as there are no residential uses or districts within several hundred feet of the subject property. Further, staff does not recommend imposing conditions pertaining to the number of nights or security personnel required, based on the applicant's stated intentions.

Chairman Adams opened the public hearing.

No one spoke about the request.

Chairman Adams closed the public hearing.

Commissioner Talley asked about parking and stated that he is concerned about the lack of lighting at the back of the property.

Mr. Diem explained that there is improved parking provided as depicted on the site plan and that the addition of nightclub use to the existing restaurant does not invoke an additional requirement.

Chairman Adams asked Ms. Argueta about lighting.

She stated that she is willing to improve the rear lighting.

Chairman Adams asked Ms. Argueta how long she has had an ABC license. She stated that she has had the license for the restaurant for approximately four months. She also operates the grocery next door and has had the off-premise ABC license for much longer.

Commissioner Sublett moved to forward CU-10-37 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 recommendation is subject to the following:

1. *Review after six months and re-approval every three years thereafter;*
2. *Nightclub use is for Karaoke and/or DJ only (no live amplified music);*

3. *The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
4. *A maximum of four (4) criminal offense police calls per month within or attributable to the establishment, after which the permit may be subject to revocation;*
5. *Nightclub use to end no later than 1:30AM on any day;*
6. *The CUP expires automatically if the nightclub use changes to another use, the nightclub use ceases for more than one year, or if the nightclub business changes ownership, in accordance with Section 18-2-3.8 of the Winchester Zoning Ordinance;*
7. *All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use (including, but not limited to, customer age verification) to occur outside the building;*
8. *Strict compliance with all local and state laws, especially those pertaining to ABC licensing and payment of meals tax, admissions tax, and annual business licenses; and,*
9. *The applicant is responsible for cleaning up the area around the outside the business after closing and maintaining it free from litter and debris.*

The motion was seconded by Commissioner Talley

Motion passed 6-0.

B. RZ-10-48 AN ORDINANCE TO CONDITIONALLY REZONE 2.762 ACRES OF LAND AT 812, 830, 844 AND 918 AMHERST STREET (*Map Numbers 171-01-16, 15A, 10 & 8*) FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH HISTORIC WINCHESTER (HW) DISTRICT OVERLAY TO RO-1 DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY; AND 0.222 ACRES AT 825 WHITTIER AVENUE (*Map Number 171-01-16A*) FROM LOW DENSITY RESIDENTIAL (LR) DISTRICT WITH HW DISTRICT OVERLAY TO RO-1 DISTRICT WITH CE DISTRICT OVERLAY; AND 0.413 ACRES AT 829 WHITTIER AVENUE (*Map Number 171-01-15B*) FROM LR DISTRICT WITH HW DISTRICT OVERLAY TO RO-1 DISTRICT; AND 0.062 ACRES AT 835 WHITTIER AVENUE (*Map Number 171-05-B*) FROM LR DISTRICT WITH HW DISTRICT OVERLAY TO LR DISTRICT. The Comprehensive Plan calls for design control using the CE overlay District with expansion of RO-1 areas along Amherst Street.

Mr. Youmans presented the request is to change the underlying and overlay zoning of certain parcels along the north side of Amherst Street and along the west side of Whittier Avenue beginning with the fourth property on Amherst Street west of its intersection with Whittier Ave and continuing westward to include the church-owned residential structure west of Calvary Baptist Church. Affected properties along west side of Whittier include the first lot with a residence on it as well as the vacant parcel just to the left of it.

In general, the request substitutes Corridor Enhancement, CE District for Historic Winchester, HW District as overlay zoning for the four lots fronting along Amherst Street and one lot fronting on Whittier Ave. It also removes a somewhat arbitrary extension of the HW District across portions of properties along Whittier Avenue. Finally, it substitutes Residential Office, RO-1 zoning for Low Density Residential, LR zoning for the two lots fronting along Whittier Avenue.

Proffers address the impacts of access management by means of shared driveway connections and interparcel connectivity. Shared parking agreements and permeable pavement are also proffered.

The properties represent the westernmost finger of the local Historic District, which extends well beyond the boundaries of the National Historic District. The historic Glen Burnie property along the south side of Amherst St is zoned EIP with HW overlay zoning in the vicinity of the subject rezoning request. The

recently constructed Glen Burnie maintenance complex is situated across from the Baptist Church. To the east, the three properties along the north side of Amherst St closest to Whittier Ave intersection would remain RO-1 with HW Overlay as would properties further to the east.

Low Density Residential, LR zoning is situated to the north of the subject rezoning area and includes single-family homes along both sides of Whittier Ave. Further to the west along Whittier Ave, the city-owned floodplain area is zoned EIP. Further to the west, property along the north side of Amherst Street is zoned RO-1 with CE District overlay. Uses include medical office, general office, and residential.

To ensure some continuity of design review, the applicant is proposing to extend the Amherst Street CE District eastward as a replacement for the retracted HW District overlay. Redevelopment upon the subject lots would be subject to the Amherst St CE District Standards and Guidelines as spelled out in Section 14.2 of the Zoning Ordinance instead of the HW Historic District regulations spelled out in Section 14 of the Ordinance. Alterations would be reviewed and approved by the Planning Director as delegated by the Planning Commission instead of being subject to review by the Board of Architectural Review.

The age of the Amherst St structures that are currently situated on properties proposed for removal from the historic district range from two houses dating to 1900 up through the Baptist Church dating to 1971. The house on the Whittier Ave lot proposed for removal from the HW district dates to 1980. The rezoning does not include any of the three adjacent houses for which PHW has historic preservation covenants.

The proposed inclusion of these sites into the Amherst St CE District ensures that redevelopment will be compatible with the standards and guidelines established for this significant tourist entry corridor, particularly in light of the major tourism destination situated across the street at Glen Burnie.

The two properties on Whittier Ave proposed for conditional rezoning from LR to RO-1 are adjacent to the Amherst St parcels already zoned RO-1. The property known as 825 Whittier Ave (currently vacant) appears from the street to function as the rear yard of 812 Amherst Street and is owned by the same entity. For now, the property at 829 Whittier Ave will continue to be used for single-family residential use. The consolidated driveway proffer would not take effect on that lot until the use changes. The RO-1 zoning would permit office uses and funeral homes by right. Banks and Bed & Breakfasts would be possible if approved as Conditional Uses.

The proffers, as outlined in the original proffer statement dated February 1, 2010, were revised in the March 9, 2010 revision to eliminate the commitment to shared parking on the two parcels owned by the church since the applicant was unsuccessful in securing the church's formal approval of such arrangement. The revised proffer also eliminates the shared parking proposal on 829 Whittier Ave. An informal agreement may still be pursued between the applicant and these other property owners. The shared parking proffer is still called for on the other three lots. The proffer calling for shared entrances is helpful to have stipulated as part of the agreement, although the existing and proposed RO-1 properties would be already be subject to the driveway spacing standards. The revised proffer now calls for two driveways on Whittier instead of the one that was ultimately called for once the residential use ceases on 829 Whittier Ave.

Impacts associated with potential commercial use in close proximity to residential properties is already addressed by means of increased side and rear buffers that go from 5 feet in width up to 15 feet in width. At a minimum, a single row of upright evergreen screening would be required or a 6-foot high opaque fence. No increased screening is proffered above the minimum required otherwise in the Ordinance.

Traffic impacts associated with the small amount of additional RO-1 zoning should be minimal and the proffer to tie-in any development on the Whittier Avenue lots with the Amherst St lots should result in a well-organized circulation plan. The existing center turn lane on Amherst St offers adequate capacity for turning vehicles to stack out of the way of through traffic.

Mr. Youmans presented a graphic depicting the difference between the local Historic Winchester District and the National Register District. The national district extends just beyond the Stewart Street intersection along Amherst St, while the local district extends much further to the west.

Mr. Diem explained that a committee had been convened by City Council to examine Historic District guidelines. Members of the committee included: Richard Bell, president of Preservation of Historic Winchester; Jim Deskins, Economic Redevelopment Director; David Edwards, Regional Director of the Virginia Department of Historic Resources; Karen Helm, Old Town Development Board Director; Tom Rockwood, Board of Architectural Review; Dave Shore, Planning Commission; and, Les Veach, City Council. Mr. Diem had been appointed to chair the committee as a non-voting member.

The committee had met during the period of July through December of 2009. A report from the committee was presented to Council during a February 2010 work session. Mr. Diem presented copies of the report to the Commission. He highlighted that one of the recommendations was to seek better alignment between the local and national districts.

Mr. Youmans stated that properties in the local HW district but not in the national district do not benefit from tax credit opportunities but still are regulated by the local Board of Architectural Review (BAR).

Mr. Youmans read the statement of intent for the Corridor Enhancement District, which states “This overlay district is intended to protect and promote the aesthetic character and functionality of major tourist access corridors leading into the designated local and national Historic Winchester District. Such entryways warrant special attention and controls because they promote the general welfare of the community by attracting visitors and generating business through heritage tourism-based economic development. Enhancement will occur through regulation and guidance of site development including, but not limited to: sidewalks, off-street parking, signage, landscaping, mechanical unit placement, lighting, as well as building materials and architectural features such as roof pitch, broken wall planes, façade enhancements, and porches, thereby enhancing the overall appearance of the corridor, while improving access along the corridor through increased walkability and interconnectivity.”

Mr. Youmans showed a rendering of an office building that is being considered for the site. He explained that the rendering was conceptual only and that it is not proffered.

Chairman Adams opened the public hearing.

Gary Oates of Greywolfe Land Surveying, agent for the applicant, Mr. Rosenfeld, stated that the application would bring economic benefit to the community. The corridor has grown as a medical corridor, plus general offices, pharmacies and banks. The CE district is actually more restrictive in terms of objective standards for development than the HW district. The proffers have limited the number of entrances. The applicant has a proven history in the City with development on Linden Drive and at the corner of Fox and Amherst. He stated that they are willing to add an additional proffer that they will use stamped concrete surfacing in parking areas that exceed 5% so that it will blend in with the pavers that will be used in all other areas.

Frank Wright, 126 W. Cork St., stated that he is speaking on behalf of Preservation of Historic Winchester (PHW). He stated that the historic district was extended along this area to protect the entrance to Glen Burnie. That is the reason it extends beyond the National District along Amherst St. He stated that there was an attempt approximately 15 years ago to develop properties at the corner of Amherst and Whittier. PHW acted to save those buildings by purchasing three houses and placing protective covenants on them. He stated that the rezoning would threaten the efforts of PHW. This effort to redraw the historic district to constrict it is unprecedented. He stated that this is contrary to the committee's recommendation to expand the national district to meet the local district. He stated that there are three 100-plus year old structures, including the church house, Mr. Sites' property which maintains its residential character, and the applicant's property. He stated he sees no reason to demolish the building.

Theodora Rezba, 1009 Caroline St, stated that she assumes ingress and egress onto Whittier Ave would be necessary. She stated that this is a residential street and that she believes traffic would negatively impact the residences and park. She stated she would hate to see the neighborhood impacted.

Joel Stowe, 206 Walker St, stated that he can see the project from his back yard. He is concerned about Whittier Park because of the number of children who use it and the traffic increase. He recommended looking at traffic control. He stated that the Amherst and Whittier intersection is very difficult.

Reverend William Layman, 833 Whittier Ave, stated that he also owns 835 Whittier Ave which is part of the request. He was concerned because he did not hear anything in the presentation about his property.

Christopher Francis, 203 Duskwood Lane, Gore, stated he is an employee of Winchester Medical Center and thinks this request is a good fit because of the growth in medical services. He stated he might be biased because he owns 812 Amherst St, but he thinks Mr. Rosenfeld's plan will meet the CE district guidelines and that it will contribute to good medical care. The need for growth was seen recently with the hearings on the Walgreens next to Selma and with the \$185 million project currently going on at the Winchester Medical Center. He stated that this would be attractive for the entrance into the City.

Patricia Zontine, 1218 Rodes Circle, stated that she has been involved with PHW since 1976. She stated that the expansion of the national district to meet the local district would bring economic benefits. The CE district may have protection for design but it does not have protection from demolition. She stated it would be in the City's interest to wait to see if it is going to expand the national register district. It would be inappropriate and unpopular with the public to ignore the committee's six months of work.

Chairman Adams closed the public hearing.

Chairman Adams asked what the status of taking the committee's recommendations to Council is and what Council is expected to do with the recommendations.

Mr. Diem stated that it would be an incorrect assumption to state that in all cases the recommendation would be to expand the national district to meet the current confines of the local district. That was not the discussion with the committee and is not how the summary report was presented to Council. The committee had looked at certain properties that are in the local district and not in the national district and questioned whether or not some of these should be in any district at all. For example, some of the larger retail properties on the south side of Amherst near Boscawen do not present any contributing resources to the district. He clarified that the committee has not specifically recommended extending the national district in this area. Specific recommendations for better aligning the two districts would wait until the architectural inventory is complete. Staff is currently working with PHW to prepare a grant application to complete the next portion of the inventory. He stated that the 1976 inventory is what we have to work with currently and that no properties west of 800 Amherst St are included in that inventory.

Chairman Adams asked when the local district was established along this portion of Amherst St.

Mr. Diem stated that it would have been in 1976.

Chairman Adams stated that he is concerned with the request. He is familiar with the applicant's work, but nothing in the request assures that he will be the one doing the work. He agrees with Ms. Zontine about the CE District. He was part of struggling through establishing the standards and guidelines. The CE District is great, but it is there for a different purpose. It is to look at aesthetics. The HW District is there to protect historic treasures. Once we lose that protection, it is gone. He stated that he is concerned about redrawing the HW district boundary to allow something to be demolished when it should go through a process like others in the district have had to go through. The applicant could benefit from tax credit opportunities if the national district was extended. He stated he is concerned with removing 829 Whittier from any overlay because he thinks there is a line of site to it. He stated that the applicant could still do his project simply by changing the underlying zoning at 825 Whittier Ave, he would just have to go through the BAR to get approvals. Mr. Adams asked if the Commission could recommend Council approve the change in just the underlying zoning.

Mr. Youmans stated that there are multiple parts to the request and that the Commission could recommend approval and denial of certain parts.

Vice-Chairman Shore stated he felt the committee was trying to accomplish getting grant money for the architectural inventory in order to make recommendations for expansions of the national district. He stated he thinks this is a workaround to get out of the Historic District.

Commissioner Slaughter asked why the replacement of the HW district with the CE district is necessary to make the project successful.

Mr. Oates stated that the project cannot work economically if they have to use the existing building.

Chairman Adams asked if they could benefit from tax credits.

Scott Rosenfeld stated that he could not. The interior modifications necessary for medical offices requires too much interior change to meet the requirements for tax credits. He stated that this project would create jobs, increase the professional tax base, and create substantial money coming into the City. He would put people to work immediately upon approval.

Chairman Adams stated that he agrees that the project would provide employment and taxes, but others have to go through the process with the BAR.

Mr. Rosenfeld stated that he has talked with members of the BAR and that there is no way he would get approval to take the building down. He hopes the Commission will forward the request to Council. He has dealt with the BAR before at 804 Amherst St and that was fine, but this is a different case. He stated that the current property owner, Mr. Francis, will suffer if this is denied. He hopes if it is denied, PHW will be willing to buy the property from Mr. Francis since he cannot do anything with it.

Chairman Adams stated the Commission only makes recommendations to Council. He understands that Council may sometimes disagree with the Commission. He thinks the BAR should be involved.

Commissioner Slaughter stated that he grew up and played soccer in the area. He stated it seemed to him that traffic would want to exit onto Whittier and go to Amherst instead of through the neighborhood. He asked if they had done any work with the traffic and if that would be a correct assumption.

Mr. Oates stated that it is a correct assumption based on their experience so far with the project at 804 Amherst St. He stated that they are willing to revise their proffers to further limit Whittier Ave access to just one exit drive. He stated that when you are in Glen Burnie, the vegetative buffer is so thick that it is like being on an island to itself. He does not think that Glen Burnie would be affected.

Mr. Rosenfeld stated that they can do something quickly here and put local contractors to work. Walgreens and Selma might be able to wait on the BAR, but he is not Walgreens or Selma. He cannot wait. He is willing to spend a few million dollars on this project that will bring in tax revenue, he is willing to work with whoever to make it fit in and create something that will do Amherst justice.

Commissioner Sublett asked if the Amherst drive is wide enough to be two-way.

Mr. Oates stated that it is.

Commissioner Sublett asked when Mr. Francis bought his property.

Mr. Francis stated sometime in the 1980s.

Commissioner Sublett asked Mr. Wright when PHW bought their three properties.

Mr. Wright suggested that Ms. Zontine might be best to answer as she was involved with that effort. Ms. Zontine stated it was sometime before 1991, but she is not sure of the exact date.

Commissioner Sublett asked if those three properties were residential only.

Ms. Zontine stated that two of the properties have restrictions that they will be residential only. 804 Amherst does not have this restriction.

Commissioner Talley asked if PHW had ever tried to buy 918 or 812 Amherst.

Ms. Zontine stated that no one has ever offered.

Commissioner Sublett asked Mr. Wright if the property Mr. Francis owns is under protective covenants.

Mr. Wright stated it is not, they have covenants on the first three properties extending from Whittier.

Commissioner Sublett asked if one of those three is one that Mr. Rosenfeld purchased from them.

Mr. Wright stated that Mr. Rosenfeld owns 804. He did not purchase it from PHW, but from a subsequent owner. The covenants still apply.

Commissioner Sublett asked Mr. Wright, given their age and what is required to put in medical offices, what is the ideal situation from PHW's view.

Mr. Wright stated that he was not aware of the intent to use for medical offices. PHW has worked with Mr. Rosenfeld on the redevelopment of 804, which he says will be offices. He stated that does not know anything about medical devices or anything like that.

Commissioner Sublett asked what he would like to see happen with 812 and 918.

Mr. Wright stated that PHW thinks they should remain as residential or at least maintain a residential appearance. He does not think they should be demolished. He thinks they can be developed for some purpose but still maintain their character, which is important for the historic district.

Commissioner Sublett asked what PHW would look upon favorably, economically speaking, to have a positive outcome for these properties.

Mr. Wright stated that 804 was a good example. PHW agreed to certain proposals from Mr. Rosenfeld to develop that property as a commercial property. It is properly zoned for a commercial use and PHW sat down with Mr. Rosenfeld and worked out the details. He does not foresee a three-story block building there because it does not work for that streetscape. He stated that PHW is willing to listen to any proposals.

Vice-Chairman Shore stated that the ability to knock down 812 would also give carte blanche for 830 and 918 to be demolished.

Commissioner Talley stated that the architectural inventory is only one-third done now. He asked if it will expand into this area or if it is too soon to say.

Mr. Diem stated that it is too soon to say.

Mr. Wright stated that he is willing to recommend to his board that PHW pay for a survey in this area.

Commissioner Talley asked about Reverend Layman's concern about his property.

Mr. Youmans showed the exhibits again and explained that the small, vacant, rear property of Rev. Layman would be removed from the HW overlay with this request. There is an adjacent property known as 839 Whittier Ave that is also an anomaly, but that property owner did not sign on as a party to the rezoning request.

Mr. Youmans clarified that there has been precedent of removing property from the local HW district. The Frederick County offices property downtown was removed previously.

Commissioner Slaughter asked if staff has received comment from Glen Burnie.

Mr. Youmans stated that he had spoken to both Franny Crawford and Julie Armel. The indication he had received on the phone was that they are not opposed to this.

Mr. Youmans stated that the Glen Burnie maintenance complex and the Museum of the Shenandoah Valley show how new construction can coexist with a historic setting. He stated that he does not think there is a view of 829 Whittier Ave from Amherst St to merit its inclusion in an overlay zone. He showed photographs from Amherst St to demonstrate this point.

Commissioner Sublett asked what the assessed value of Mr. Francis's property is.

Mr. Francis stated he thinks it is about \$160-180 thousand, but he is not positive.

Commissioner Sublett clarified that he is asking for the value of just his two parcels of land, not the house.

Mr. Francis acknowledged this and again stated \$160-180 thousand.

Commissioner Slaughter stated that he does not necessarily see this request as a workaround, but the question is whether the properties are better suited for being in the CE district or the HW district.

Chairman Adams stated that he agrees that this is a valuable corridor, but he is unsure if removal from the HW district is appropriate.

Commissioner Adams asked if there was a consensus.

Commissioner Talley stated that he would like to see the survey, but that will probably be a while.

Vice-Chairman Shore stated that the houses have been here over a hundred years and asked what the rush is, although he understands it is a rush for the developer.

Chairman Adams stated that this is not an easy one.

Commissioner Slaughter stated that the project itself has a lot of merit.

Chairman Adams stated that he agrees, but thinks it can proceed within the HW district. He supports the RO-1 zoning for 825 and 829 Whittier, but no change to the overlay.

*Commissioner Talley moved that the Commission forwarded **RZ-10-48** to Council recommending approval of the rezoning request as depicted on an exhibit entitled "Rezoning Exhibit, RZ-10-48, Prepared by Winchester Planning Department, March 2, 2010", except to exclude the removal of Historic Winchester overlay from, and the extension of the Corridor Enhancement overlay to, any of the subject properties. The recommendation is subject to the proffers in the Proffer Statement dated February 1, 2010, and revised March 9, 2010, because the rezoning represents good planning practice by expanding opportunities for corridor-sensitive economic development in a suitable area.*

The motion was seconded by Vice-Chairman Shore

Commissioner Sublett clarified that all they are doing is recommending RO-1.

Chairman Adams stated that the recommendation is for RO-1 on Whittier. The HW district would be maintained as it is, and nothing additional would be put into the CE district.

Motion passed 6-0.

NEW BUSINESS

A. TA-10-111 AN ORDINANCE TO AMEND ARTICLES 1, 6, (8, 9, 10) AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS, PERMITTED USES AND PARKING REQUIREMENTS FOR CREMATORIES

Mr. Moore presented the proposed amendment to address the lack of a definition for crematory in the Zoning Ordinance and to establish associated use regulations and parking requirements. Crematories have historically been interpreted by the City as accessory uses to funeral homes. Recently, a crematory has been planned in the City specifically for the disposition of pet remains. While this establishment is initially planned to be operated by the same owner as an adjacent funeral home that includes a human crematory, the owner does plan to subdivide the property such that the pet crematory is on a separately platted parcel of land. As there are no provisions in the Ordinance for a crematory as a principal use, and

as this type of operation is known to operate independently of funeral homes in other jurisdictions, staff suggests that it is desirable to establish a definition and associated regulations for the use.

The Ordinance currently provides for funeral homes as permitted uses in the RO-1, B-1, B-2 and CM-1 districts. They are also provided for consideration as conditional uses in HR, with the specific criteria that crematories are not included. There are currently three funeral homes within the City, including two within RO-1 and one which is non-conforming within HR-1.

The proposed amendment would provide a definition for crematory, establish use regulations and an associated parking requirement. Potential air pollutants are regulated by the Virginia Department of Environmental Quality through stationary source air permits. Based upon Planning Commission work session discussion, three versions have been drafted for consideration. Each contains the same definition and parking requirement. Draft 1 is the same that was presented in the work session, with crematories permitted by-right in the RO-1 district. Draft 2 reflects the work session discussion to permit the use in the RO-1 district when accessory to a funeral home and consider as a conditional use in RO-1 when operated as a principal use. Draft 3 addresses crematories in all districts where funeral homes are permitted. Crematories would be permitted in RO-1, B-2, and CM-1 when accessory to a funeral home and considered as a conditional use in those same districts when a principal use. The use would be specifically excluded from consideration in B-1 district.

Commissioner Sublett stated that Draft 3 looks fine to him.

Chairman Adams stated that Draft 3 still provides the discretion of a conditional use but also recognizes that these may be going in where there are funeral homes.

Commissioner Sublett moved to initiate TA-10-111 as identified in Draft 3, dated 3/10/2010 because the amendment represents good planning practice.

The motion was seconded by Commissioner Talley.

Motion passed 6-0.

B. Capital Improvements Program (CIP) project review

Mr. Youmans asked City Manager Jim O' Connor if he had any comments for the Commission regarding the CIP process.

Mr. O' Connor stated that review has moved past the budget committee and has been forwarded to Council for work session review.

Chairman Adams asked if there have been any changes.

Mr. Youmans stated that the only changes were those as identified in the Commission work session the previous week.

Commissioner Sublett stated that he was happy with the staff recommendations for prioritization of projects that were presented by Mr. Youmans during the work session.

Mr. Youmans stated that there were items in that staff-prioritized list that were not typically what the Commission would weigh in on, such as the public safety radio system, because they are unrelated to the Comp Plan.

Chairman Adams asked how soon the Commission recommendation was needed.

Mr. O'Connor stated that a work session will be held in two weeks.

Chairman Adams stated that he agreed with the rating system and suggested that the Commission consider recommending the CIP items as related to the Comp Plan as presented.

Commissioner Talley moved that the Commission recommend approval of the presented recommendations as pertains to the CIP, except for equipment, as the items relate to the Comp Plan.

Chairman Adams asked Mr. O'Connor if this recommendation would suffice.

Mr. O'Connor stated that it would work and that he would have Mr. Youmans provide the Comp Plan relation for the items to Council.

The motion was seconded by Vice-Chairman Shore.

Motion passed 6-0.

ADJOURN

Chairman Adams officially welcomed Commissioners McKannan and Slaughter and thanked them their work at their first Commission meeting.

With no further business to discuss, the meeting was adjourned at 5:10 pm.

Nate Adams, III, Chairman