

The Planning Commission of the City of Waynesboro, Virginia, held a regular meeting on the 19th day of September 2023, at 7:00 P.M., in Council Chambers, Charles T. Yancey Municipal Building, 503 West Main Street, Waynesboro, Virginia:

PRESENT: Commission Members:

Shannon Boyle, Chair
William Flory, Vice-chair
Michael Gibson
Philip Klann
Kenny Lee, Council Liaison

Director of Community Development:
City Planner & Clerk of the Commission:
Zoning Administrator

Leslie Tate
Alisande Tombarge
Laura Martin

ABSENT: Commission Members:

W. Lowrie Tucker

1. Call to order. Pledge of Allegiance.

Chair Boyle called the meeting to order at 7:00 P.M. and asked Mr. Flory to lead the Pledge of Allegiance.

2. Adoption of agenda.

Chair Boyle asked for a motion to adopt the agenda. Mr. Gibson made the motion, Mr. Klann seconded. All voted in favor.

3. Review and approval of minutes of meeting held August 22, 2023.

Chair Boyle asked for a motion to approve the minutes. Mr. Gibson made the motion, Mr. Lee seconded. All voted in favor.

4. Public comment period for items not on the agenda.

None.

5. Public hearing for a zoning map amendment request by Draft Building Company to amend the proffers for Tax Map Nos. 40-3-115A and 40-3-115C located at 0 Lew Dewitt Blvd., Waynesboro, Virginia.

Ms. Tombarge gave the presentation on the request by Draft Building Company to amend the proffers for Tax Map Nos. 40-3-115A and 40-3-115C. For details, see the staff report in the agenda packet for the September 19, 2023, Planning Commission meeting.

Mr. Lee said that potential developers would be permitted to have multiple signs and asked if they would still need to abide by zoning ordinance's sign section.

Ms. Tombarge confirmed that they would need to abide by the zoning ordinance for any signs.

Mr. Gibson asked if the applicants had a development in mind for the site or if the proffer amendments were meant to allow them to put the property up for sale.

Ms. Tombarge indicated that there was not anything in mind for the property now. It was her understanding that the applicants had been having trouble selling the property, and she mentioned that the applicants would be in a better position to answer that question.

Chair Boyle opened the public hearing.

Carrie Wood, on behalf of Draft Building Company, applicant, 920 Shenandoah Village Drive, Waynesboro, approached and read a prepared statement. The statement is attached to these minutes.

Mr. Gibson asked if the applicants wanted to get out of the development business altogether.

Ms. Wood said confirmed they did.

Doug Noland, 105 Jasper Lane, Waynesboro, President of the Pratts Runs Homeowners Association, spoke expressing concerns about traffic on Bryant Drive and the potential uses that may be developed on the property if the proffers were amended. He did appreciate the revised proffers that would be in place but that there was a need to maintain a transition from a commercial to residential area.

Chair Boyle asked if there were any more comments or people signed up to speak.

Ms. Tate said that she had not received any other comments and there were no additional signups.

Chair Boyle closed the public hearing.

Mr. Gibson asked if this was a by-right property.

Ms. Tate said that the property was currently zoned Highway Business and that the seven proffers exist on the property and it could develop today as long as they abided by the proffered restrictions.

Mr. Flory asked if there was a 15-foot [vegetative] buffer on the residential side as well.

Ms. Tate responded that there was not and that the ordinance only requires a 15-foot buffer on the commercially zoned side. If the revised proffer was not offered, then the applicants could clear the property completely and plant a new Class B buffer in its place along that boundary.

Mr. Flory confirmed that the residential side of the property did not have a 15-foot buffer.

Ms. Tate confirmed this was the case.

Mr. Klann asked the applicants, represented by Ms. Wood, if the biggest issue with selling the property has been proffer #2, that the development could only be developed for professional office and retail uses.

Ms. Wood said that she believed there were offers for other types of uses and that because the proffers were in place, it could not be sold.

Mr. Klann asked if this was due to the other proffers or just due to the limitation of professional office and retail space requirement.

Ms. Wood said that she believed there was one offer for a car wash, which would not be permitted due to the proffers.

Mr. Larry Wood commented that Draft Building Co has also rejected an offer for mini-storage, which would also not be permitted under the current proffers.

Ms. Tate commented that as far as the 24/7 goes, it would depend on how the ordinance is worded and since the proffer specifies a retail business; a car wash would probably be considered a 24/7 business.

Chair Boyle asked if a car wash would be considered a retail business.

Ms. Tate said that the City would likely determine that a car wash is a 24/7 retail business.

Mr. Lee asked who would determine what would be considered a 24/7 retail business.

Ms. Tate responded that Laura Martin, the zoning administrator, would make that determination and that there is an avenue to appeal whatever determination she made through the Board of Zoning Appeals.

Chair Boyle said that if they [planning commission] wanted to, they could say that no car washes are allowed.

Ms. Tate confirmed this was the case. Ms. Tate followed up by saying that there are other uses permitted in the highway business district either by-right or by conditional use permit that are not specifically precluded.

Mr. Flory commented that [Mr. Nolan] was concerned by the possible noise from a potential restaurant and he understood the concern about the noise and the proximity to residential. He asked if that was something that could be addressed on the zoning side.

Ms. Tate responded that with the proffers as they stand today, a restaurant would not be permitted. If the revised proffers were approved, a restaurant would be permitted. At that point, any outdoor music associated with the restaurant would fall back on the City's noise ordinance, and if outdoor music was something the Commissioners are interested in precluding as a use, then that would be something that should be considered.

Mr. Gibson commented that Zeus [movie theater] and Bottles [an entertainment venue] are right up the road and there is another residential development is right there.

Ms. Tate said that she wanted to point out that with the changes a restaurant would be permitted and that outdoor music is permitted.

Chair Boyle said that we all live in a city and are subject to the same noise requirements and to isolate one neighborhood seemed very elitist.

There was general agreement among the commissioners.

Mr. Gibson said that the presentation said the corridor had not developed in the way it may have originally been intended, and that there are now a variety of businesses along the corridor and the zoning ordinance would address the concerns the Pratts Run HOA would have.

Chair Boyle asked if anything that were in on the property would be subject to VDOT traffic requirements like the other properties.

Ms. Tate said that Lew Dewitt is a limited access roadway and it would go through a review. She noted that it would be a by-right development but that entrances on Bryant Drive would be evaluated through turn lane warrant analysis and other factors would be reviewed during site plan review process.

Chair Boyle followed up saying that it would not be a free for all and that as many cars as they wanted could not go in and out of the property and prevent the Pratts Run neighborhood from getting in or out.

Ms. Tate said that it is a by-right development and some uses are a higher generator of traffic than others and the City would not have complete control over what could be located there, but there would be an evaluation of traffic impacts, entrance considerations, and adjacent property connections through the site planning process.

Mr. Gibson said that it was possible the entrance to Lowe's from Bryant Drive may not have been approved according to today's requirements, but that entrance was put in according to the requirements at the time.

Mr. Gibson made a motion to recommend approval of the zoning map amendment of Draft Building Company to amend the proffers for Tax Map Nos. 40-3-115A and 40-3-115C located at 0 Lew Dewitt Blvd., Waynesboro, Virginia as presented.

Mr. Flory seconded.

All voted in favor, 5-0. The motion carried.

WHEREAS, upon application by Draft Building Company, the Waynesboro Planning Commission finds that the request for a zoning map amendment to amend the proffers that were part of an approved rezoning application, #R-01-2 and Ordinance 2001-53, meets or exceeds all the requirements of state and local law, and further, that the request is consistent with good planning and zoning practice; is justified by the public necessity, convenience, and general welfare; and is in accord with the general goals and objectives of the comprehensive plan of this City;

NOW, THEREFORE, BE IT RESOLVED by the Waynesboro Planning Commission, by a vote of 5-0, that a recommendation be forwarded to City Council that the request of Draft Building Company, for a zoning map amendment to amend the proffers that were part of an approved rezoning application #R-01-2 and Ordinance 2001-53 for a property on Lew Dewitt Boulevard, Waynesboro, VA (City Tax Map numbers 40-3-115A and 40-3-115C), be approved, in accordance with the application ZMA #23-020 and the staff report dated September 19, 2023.

6. Second consideration of a conditional use permit request by Waynesboro Area Refuge Ministry, Inc. (WARM), to modify its existing conditional use permit (#13-091 and #18-312) allowing temporary supportive housing operations in the RG-5 (General Residential) District at 1035 Fairfax Avenue (TM# 26-1-9A), Waynesboro, Virginia.

Ms. Tombarge gave a brief review of the application and introduced Brian Edwards, WARM's interim executive director, to answer the Commissioner's questions from the August meeting. For details on that request, see the staff report in the agenda packet for the September 19, 2023, Planning Commission meeting.

Chair Boyle asked if the Commissioners had any questions.

Mr. Gibson said that the only question they had was about the reduction in staffing from 3 to 1 while at the same time increasing the number of people WARM was serving.

Ms. Tate said that Mr. Edwards would be able to address those questions.

Mr. Edwards said that the staffing requirement was put in place with the original CUP because WARM was not sure what the organization's staffing requirements were going to be. Over time, they have realized that there is only need for 1 staff member on site overnight. That staff member is awake at all times to let residents in if needed and if there is an emergency. There are also on-call staff available 24/7 if something were to come up that the on-site staff person cannot manage. He said the change in number of persons includes the residents but also staff and maintenance people permitted on the property at one time.

Chair Boyle asked if this change would allow WARM to serve one additional family.

Mr. Edwards confirmed this was the case and that WARM has been able to move its administrative offices next door to the former Arc of Augusta building. This opened up another room in the former executive office for use as another bedroom.

Mr. Gibson said that the increase in the number of individuals on the campus is to permit for the staff, residents, and maintenance staff.

Mr. Edwards said yes, and that it is also to accommodate that one additional family.

Mr. Klann said that the report refers to the licensure of the facility and asked who or what was that.

Mr. Edwards said that he was not familiar with that requirement.

Ms. Tate said that she believed that there had been questions last time about if the use was licensed through the state.

Chair Boyle said that there had been questions at the last meeting about the staff relative to the number of persons if there were some outside criteria that had to be met.

Mr. Edwards confirmed that there are no licensing requirements for their type of facility.

Mr. Klann confirmed that the 1 staffing member would only be on the overnight hours.

Mr. Edwards confirmed that there would be only 1 staffing member present overnight and on the weekends because there is not a lot of activity going on. Many of the mothers are working or are taking the children to other places.

Mr. Klann asked what the backup procedure was if a person was sick.

Mr. Edwards said that they would not operate without at least 1 staff person on site.

Chair Boyle and the Commissioners thanked Mr. Edwards.

Mr. Gibson made a motion to recommend approval of the conditional use permit request by Waynesboro Area Refuge Ministry, Inc. (WARM), to modify its existing conditional use permit (#13-091 and #18-312) allowing temporary supportive housing operations in the RG-5 (General Residential) District at 1035 Fairfax Avenue (TM# 26-1-9A), Waynesboro, Virginia, pending Staff obtaining additional information from the applicant about the application.

Mr. Flory seconded.

All voted in favor, 5-0. Motion carried.

WHEREAS, upon a conditional use permit (23-016) application by Waynesboro Area Refuge Ministry, Inc., the Waynesboro Planning Commission finds that the transient housing use is permitted as a conditional use in an RG-5 (General Residential) District in which the subject property is located; and that the amended conditions will have no more adverse effect on the health, safety, or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in such District; and, further, that the request is consistent with good planning and zoning practice; is justified by the public necessity, convenience, and general welfare; and is in accord with the comprehensive plan of this City;

NOW, THEREFORE, BE IT RESOLVED by the Waynesboro Planning Commission, by a vote of 5-0, that a recommendation be forwarded to City Council that the request of Waynesboro Area Refuge Ministry, Inc., to modify the conditions of its existing Conditional Use Permit (CUP 13-091 and CUP 18-312) allowing temporary supportive housing operations at 1035 Fairfax Avenue, Waynesboro, Virginia, City Tax Map number 26-9-1A, be approved, in accordance with the application (#23-016), and staff report dated August 22, 2023. The amended condition 1.b. and c. of the existing Conditional Use Permit (13-091 and 18-312) states as follows:

- 1. Waynesboro Area Refuge Ministry (WARM) shall operate the transient lodging (a.k.a. Temporary Supportive Housing) as follows:*
 - b. It shall maintain appropriate professional around-the-clock staffing coverage for the facility, with no less than one (1) full time (or FTE) employee providing services and supervision 24 hours per day and 7 days per week.*

- i. *The shelter shall not operate at any time without at least one qualified staff member onsite and one on-call supervisor/ manager providing additional backup coverage to the facility. This includes daytime staff, evening staff, and overnight staff, even when the overnight staff has residence on-site.*
- ii. *The organization's management must employ a professional staff with relevant training and experience in the homeless services and operations field and, more specifically, with the services and operations offered through Temporary Supportive Housing/ Transitional Housing programs. The staffing plans and patterns of the facility must be documented and available for review by the Planning Director or Zoning Administrator or their designee.*
- c. *The facility shall not exceed more than 35 persons (inclusive of transitional clients, staff, and volunteers) at any given time.*

7. Presentation and discussion of a draft zoning text amendment for vape/tobacco shops.

Ms. Tombarge provided an overview of the draft text amendment for vape/tobacco shops. The draft text amendment included a definition of what a vape/tobacco shop was and a section addressing use standards which included a purpose statement, what constituted the establishment of a vape or tobacco shop, and location restrictions. Ms. Tombarge then opened it up for discussion amongst the Commissioners.

A wide-ranging discussion commenced among the Commissioners and staff. The discussion included what areas were included within the 500-foot around the high school and William Perry Elementary School; what the potential loopholes would be for the draft amendment as proposed; if specifying a certain percentage of floor area for vape/tobacco products could be possible and how enforceable that would be from a zoning ordinance perspective; what the ultimate purpose of the ordinance is and if zoning was the right tactic to take to help regulate vape and tobacco shops; how long other localities' vape and tobacco shop ordinances had been in effect; the purpose of only including public elementary, middle, and high schools and if Wayne Hills pre-K should be included in the buffered zones; if a 1,000-foot buffer around the schools should be considered;

Ms. Tate reviewed the history of the draft text amendment and what the options were for the Commissioners at their meeting tonight.

Mr. Flory recommended that a motion be made to recommend the amendment as drafted and if it failed, then a motion could be made to continue the discussion.

Chair Boyle asked if there was a motion.

Mr. Gibson made a motion to approve the draft text amendment for the vape and tobacco shops as currently written and stated.

Ms. Tate clarified that the motion would be to direct staff to schedule public hearings based on this draft ordinance.

Mr. Gibson confirmed.

Chair Boyle asked for a second.

With no second received, the motion failed.

Discussion continued surrounding what would happen if no ordinance was passed; if a 500 or 1,000-foot buffer would include all of the Food Lion shopping center area on Hopeman Parkway; and about the memo that had been provided to the commissioners earlier in the year and if that could be resent to all of the commissioners.

Chair Boyle suggested tabling the issue until the next meeting so that Mr. Klann could review the information provided in the memo.

Mr. Flory said that the definition should include synthetic cannabis and kratom products.

Mr. Gibson made a motion to table the discussion of the draft vape and tobacco text amendment to the October 17, 2023, planning commission meeting and to update the draft text amendment according to Mr. Flory's recommendations.

Mr. Klann seconded. All voted in favor, 5-0. Motion carried.

The draft text amendment was tabled to the October 17, 2023, planning commission meeting.

8. Review of minor subdivision and final subdivision plats approved since the August 22, 2023, meeting.

None

9. Matters from Staff.

Ms. Tate welcomed Mr. Klann to the planning commission.

10. Commissioners' correspondence and communications

Chair Boyle asked what constituted a meeting. Ms. Tate said that two or more commissioners talking in person, via email, or over the phone would constitute a meeting and need to be duly advertised. A general discussion of meeting requirements followed.

11. Adjournment.

Mr. Gibson motioned to adjourn the meeting. Mr. Flory seconded. All voted in favor.

Meeting was adjourned at 8:17 P.M.

The proffers were made in 2001 at the advice of the City Planner at the time in line with the comprehensive plan then existing for the Lew Dewitt corridor. There was not much development on the road then. The comprehensive plan has been amended since, allowing for the construction of stores like Lowes, Tractor Supply Company, and NAPA Auto. In addition, a strip mall and car wash have been built nearby.

It was the intent of Draft Building Company, at that time, that it would develop the property. However, since then, between the economic turndown of 2008 and the death of the original owner of Draft Building Company, his family members, as heirs and current owners, are no longer in the building business.

Draft Building wishes to sell the property. Realtors have advised Draft that the existing proffers are too stringent for any potential purchasers and more restrictive than land use allowed on adjoining lots and along Lew Dewitt. Larry Wood, one of the owners of Draft Building, was responsible for the planning and building of most of Pratts Run, which is located directly behind the lot at issue, and takes pride in his involvement in that neighborhood. His intent is to maintain the property values and the aesthetics for the homeowners in Pratts Run, and as such asks that the proposed proffers of maintaining a 15 foot buffer of existing vegetation and not allowing the construction of gas stations, fast food, convenience stores or 24/7 retail businesses be approved.