

LEXINGTON PLANNING COMMISSION

July 27, 2023 - 5:00 P.M

**Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450**

AGENDA

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**
Minutes from July 13, 2023*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
 - A. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
 - 1) Staff Report* and continued Commission Discussion
 - 2) Public Comment
- 6. OTHER BUSINESS**
 - A. Zoning and Planning Report – If applicable
 - B. Key Annual PC Milestones: Ongoing. Remaining items:
 - 1) Zoning Text Amendments: Ongoing. Remaining items:
 - a. Cottage Housing
 - b. What else, if any?
 - 2) Comp Plan Review: Ongoing
 - 3) Major Project Update
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

*indicates attachment

MINUTES

The Lexington Planning Commission
Thursday, July 13, 2023 – 5:00 p.m.
Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450

Planning Commission:

Presiding: Blake Shester, Chair
 Present: John Driscoll
 Gladys Hopkins (arrived 5:06 p.m.)
 Shannon Spencer
 Leslie Straughan, Council Liaison
 Matt Tuchler, Vice-Chair

City Staff:

Arne Glaeser, Planning Director
 Jeremy Carroll, City Attorney
 Kate Beard, Administrative Assistant

Absent: Pat Bradley

CALL TO ORDER

Chair Shester called the meeting to order at 5:01 p.m.

AGENDA

Given the City Attorney's limited availability, Chair Shester suggested amending the agenda to hold the discussion with the City Attorney before consideration of the minutes. He also suggested moving the election of officers to the end of the New Business. The agenda was unanimously approved with those amendments. (J. Driscoll / L. Straughan)

DISCUSSION OF CONFLICTS OF INTEREST

City Attorney, Jeremy Carroll, joined the meeting via Zoom to discuss his memorandum providing guidance about conflicts of interest that require the recusal of individual Commissioners from the consideration of Washington & Lee University's site plan and Certificate of Appropriateness applications. It was his opinion that those Commissioners who were either the employee or spouse of an employee of Washington & Lee should recuse themselves and disclose their personal interest in those transactions. He explained the basis of his opinion and noted conflict questions are complicated and open to interpretation. He added that a personal interest in a transaction would not require disqualification all circumstances and suggested a determination be made on a case by case basis. He also offered to confer with the Commonwealth's Attorney and the Conflicts of Interest Advisory Council in Richmond on future W&L related matters.

MINUTES

The minutes from the June 8, 2023 meeting were unanimously approved as presented. (L. Straughan / J. Driscoll)

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

NEW BUSINESS

Commissioners Shester, Straughan and Tuchler recused themselves from the discussion of the Washington & Lee applications. Their disclosure statements are attached hereto and made a part of record. They each left the dais and joined the public. Commissioner Driscoll presided over the applications submitted by Washington & Lee University.

A. EC COA 2023-03: An application by Hugh Latimer for approval of a Certificate of Appropriateness (COA) for construction of the Williams School expansion building at 216 W. Washington Street (Tax Map #16-1-1), owned by Washington & Lee University.

- 1) Staff Report – A. Glaeser explained the University was requesting an Entrance Corridor Certificate of Appropriateness, as required by City Code, for the construction of a new building at 216 W. Washington Street, which is located in the General Residential (R-1) zoning district and in the Institutional Overlay District (I-1). He pointed out the portion of the parcel to be affected by the request and reviewed what was approved for the site in the 2022 Campus Master Plan amendment. He then led the Commission through the entrance corridor design standards for design review. Opening with a question about requirements for street trees, S. Spencer observed that the design guidelines were open to interpretation and expressed concern that the proposed elevation of the building depicted a very large building with minimal tree coverage to soften the effect of its visual mass. A. Glaeser noted that, while the Commission had discretion in the design review process and could include a suggestion that more street trees be included in the design, there were no explicit requirements for street trees, and any decision would need to be based upon the entrance corridor design standards. At J. Driscoll’s request, he added that, in staff’s opinion, the Williams School expansion building met all of the design standards included in the Entrance Corridor Overlay District.
- 2) Applicant Statement – Addressing the concerns about landscaping for the site, Washington & Lee Architect, Hugh Latimer, referred to the Landscaping Plan and stated 19 trees would be planted on the site. He pointed out that additional, originally proposed tree plantings were removed from the plan to comply with the Fire Department’s access requirements. He joined the Commissioners at the dais to indicate on a large-scale plan where maple trees were intended to be planted, noting they would grow to be large trees over time. He also pointed out where existing trees were located, where additional plantings were being proposed, and noted the elevation drawing did not include all the plantings proposed.
- 3) Public Comment – None
- 4) Commission Discussion & Decision –A. Glaeser provided a summary of the review the proposal had received from City staff. He remarked that this was the third set of plans submitted. The first was received in February, and all plans had been reviewed and vetted by the City departments cited in the written Staff Report. The application was only forwarded to the Planning Commission for review after all City staff found it to comply with City requirements. S. Spencer questioned the glass front proposed for the new building. She felt it was not in keeping with the other buildings in that area, which concerned her given its proximity to the central downtown district. Mr. Latimer said the intent was for the building to be a more contemporary expression of the traditional campus architecture and he cited other historic University buildings that had received more

contemporary glass additions as precedent. S. Spencer said she admired the addition to the old DuPont building but noted the structures he cited were interior to campus while the new building would be much closer to the downtown area. She asked if Commissioner Driscoll or Hopkins shared her concerns about the design and they each explained why they did not. S. Spencer remarked that adequate landscaping would soften the impact and J. Driscoll agreed. **G. Hopkins moved to approve the Entrance Corridor Certificate of Appropriateness application EC 2023-03 for the construction of the new Williams School Expansion Building at 216 W. Washington Street as proposed by the applicant. S. Spencer seconded and the motion passed unanimously. (3-0)**

B. SP 2023-03: An application by Hugh Latimer requesting approval of a site plan for the construction of the Williams School expansion building at 216 W. Washington Street (Tax Map #16-1-1), owned by Washington & Lee University.

- 1) Staff Report & Applicant Statement – A. Glaeser explained this request was for the same proposal and location as the previous application. He noted the design review decision allowed for some discretion whereas a site plan approval was largely a ministerial act. He pointed out the Campus Plan Proffer Statement, submitted on May 4, 2022, included two proffers with respect to the subject application which spoke to the building’s siting and height, as well as an updated traffic study. He emphasized that the traffic study, while proffered, should be considered as background information only. He explained that because the City has no standards by which to apply the traffic analysis to the application, no determination should be based solely on the traffic data, though he encouraged the Commissioners to ask questions about the data.

G. Hopkins requested assurance from the applicant that a stipulation on page 7 of the Washington & Lee University New Williams Building Traffic Impact Study stating, “all construction traffic must enter and exit to the north along US 60 and not pass through Downtown Lexington,” would be adhered to. Mr. Latimer confirmed that it would be adhered to, and that the University would erect signage to direct truck traffic during construction. S. Spencer said she would not base her decision on the traffic analysis, given staff’s recommendation, but wanted to note her concerns with the original study. She pointed to the fact that the analysis did not include data collected after 3:00 p.m., and that the original data was gathered early in the COVID pandemic, during a time when W&L was in session, but nothing was normal. J. Driscoll asked if the Commission’s recommendation should reference the recommendations included in the traffic study. A. Glaeser replied he did not believe it was necessary as they were included in the application materials, and he therefore considered them to be part of the proposal. He asked the Commission to consider the criteria for site plan approval, and stated it was staff’s opinion that the proposed site plan for the Williams School expansion building complies with all zoning requirements pertaining to site design and use, and is in compliance with all other relevant City codes.

- 2) Public Comment – None
- 3) Commission Discussion & Decision – **S. Spencer moved to approve Site Plan number SP 2023-03 and find the submitted site plan for the Williams School expansion**

building at 216 W. Washington Street to be in compliance with applicable City codes. G. Hopkins seconded, and the motion passed unanimously. (3-0)

Commissioners Shester, Straughan and Tuchler returned to the dais. Director Glaeser suggested opening items C and D together for the purposes of the staff report, applicant statement and public comment, and then voting on each application separately. Chair Shester agreed.

C. PUD 2023-01: An application by MaxMark Homes, LLC & Weatherburn Holdings, LLC to amend the Planned Unit Development for the Weatherburn subdivision located at the intersection of Thornhill Road and Chamberlain Loop.

D. PS 2023-03: An application by Pierson Hotchkiss proposing a Preliminary Subdivision Plat (boundary line adjustments and boundary line vacation) to vacate 23 Chamberlain Loop and to adjust the boundary lines for 21 & 25 Chamberlain Loop and the adjacent open space.

1) Staff Report & Applicant Statement – A. Glaeser reported the construction of the homes in the Weatherburn subdivision was now complete and the request was for a final amendment to the Planned Unit Development Concept Plan. The request was to a) vacate Lot 21 (Tax Parcel #39-1-1-21), b) adjust the boundaries of Lots 20 & 22 (Tax Parcels #39-1-1-20 & #39-1-1-22 respectively), and c) adjust the adjacent open space (Tax Parcel #39-1-6) in accordance with the applicant proffered PUD Modification Plan, dated June 19, 2023, prepared by Perkins & Orrison, Inc. The request to vacate Lot 21 was due to the difficulty in construction of a dwelling on the lot as originally designed. The land area of Lot 21 would be largely divided between Lots 20 and 22, with the open space “wedge” shifting slightly to the west, so as to not change the total overall common space acreage. All other elements of the previously approved PUD would remain in effect.

M. Tuchler pointed out that approval of the request would result in the loss to the City of a taxable residential parcel. S. Spencer voiced concern about the accessibility of the open space and whether access was equitable to all residents of the subdivision. A. Glaeser noted the 3 foot walking easement between lots 17 and 18. Pierson Hotchkiss of Perkins & Orrison pointed out there was also a 10 foot walking easement between lots 22 and 23. Responding to a question from L. Straughan, Director Glaeser confirmed the owner of Lot 20 agreed to the proposal. There was additional discussion about the open space along the southeastern edge of the property during which Commissioners Spencer and Driscoll suggested alternate configurations of the property lines to improve access, equity of access and maintenance to the open space. L. Straughan offered that the open space being discussed functioned more as green space than as usable open space. She also noted there did not seem to be public concern about the proposal. Responding to a concern voiced by M. Tuchler, A. Glaeser confirmed the subdivision’s Homeowner’s Association was aware and in full support of the proposal.

2) Public Comment – None

3) Commission Discussion & Decision – **J. Driscoll moved to approve application PUD 2023-01 to amend the Weatherburn Planned Unit Development as presented by the applicant and with the one applicant proffered condition. S. Spencer provided the**

second. S. Spencer asked if there was support to add a recommendation that the 10 foot easement be moved from the west side of Lot 22 to the east side. Director Glaeser and others voiced concern about including such a recommendation procedurally. L. Straughan stated she thought it would be more appropriate for a recommendation to move the easement to come from the neighbors and/or developer. Chair Shester called for a vote **and the motion passed unanimously. (6-0)** Commissioner Spencer asked that the suggestion to move the easement be passed on to the developer and HOA. Mr. Hotchkiss indicated he would do so. **S. Spencer moved to approve Preliminary Subdivision application PS 2023-04 for the boundary line adjustments and vacations in the Weatherburn subdivision in accordance with the Plat Showing Boundary Line Adjustments Weatherburn completed by Perkins and Orrision as submitted by the applicant. M. Tuchler seconded and the motion passed unanimously. (6-0)**

E. Elect Chairperson

- 1) Nominations – Pat Bradley was nominated to serve as Chair.
- 2) Motion & Vote – **B. Shester moved to elect P. Bradley as Chair. S. Spencer seconded and the motion passed unanimously. (6-0)**

F. Elect Vice-Chairperson

- 1) Nominations – S. Spencer was nominated to serve as Vice-Chair.
- 2) Motion & Vote – **M. Tuchler moved to elect S. Spencer as Vice-Chair. J. Driscoll seconded and the motion passed unanimously. (6-0)**

OTHER BUSINESS

A. Zoning and Planning Report – Director Glaeser reported the following:

- As of July 1, 2023, advertising requirements changed such that a public hearing cannot be advertised more than 14 days prior to the hearing.
- A second meeting was held with the consultant hired to assess the condition of City Hall and conduct a space needs assessment of the departments in the building.
- A conditional use permit application for the new W&L Health Center will be submitted in the near future.

CITY COUNCIL REPORT -

The July 6, 2023 City Council meeting was cancelled.

ADJOURN

The meeting was adjourned at 7:08 p.m.

B. Shester, Chair, Planning Commission

Draft Accessory Dwelling Unit ordinance language (7.27.2023)

Article III. Use Matrix.

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
Use Types								
Residential								
Accessory apartment Dwelling Unit - Attached			B	B	B	B	B	
Accessory Dwelling Unit - Detached			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B ¹ , C ²	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		

§420-11.1. Residential Uses.

1. Accessory Dwelling Unit (ADU).

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options ~~in the City for the benefit and convenience of families and households with changing economic conditions and/or family structure.~~ Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

“Accessory Dwelling Unit - Attached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

“Accessory Dwelling Unit - Detached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. General standards. Accessory Dwelling Units shall be subject to the following minimum standards:

- (1) No more than one ADU shall be allowed per parcel, **provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.** *(with exceptions for C.(5), E.(9), and any others?)*
- (2) Accessory dwelling units must comply with all applicable building code regulations.
- (3) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- (4) The underlying zoning district **development standards** for lot coverage, height, setbacks and ~~floor area ratio~~ that apply to the primary dwelling shall also include the accessory dwelling unit in the calculation of these standards.
- (5) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- (6) The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.
- (7) The separate sale of an accessory dwelling unit is prohibited.
- (8) Only one short term rental registration shall be allowed per parcel.
- (9) **Accessory dwelling units shall not be included in calculations of density.**
- (10) Allowable square feet for accessory dwelling units shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. **Rooms with structural headroom of less than 6’ 6” shall not be counted,** nor shall garage space, provided the area of the garage

does not exceed the counted floor area. Covered porches, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area. *(decks?)*

(11) Any accessory dwelling units shall comply with the following parking requirements:

- i. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
- ii. Where either 1 or 2 spaces exist prior to the issuance of the accessory dwelling permit, all such space(s) shall be maintained.
- iii. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

-OR-

(11) One parking space per accessory dwelling unit shall be required in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.

D. Accessory Dwelling Unit – Attached standards. Attached Accessory Dwelling Units shall be subject to the following additional standards:

- (1) The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet *(possibly strike the square footage cap to allow flexibility for larger structures)*.
- (2) No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley.

E. Accessory Dwelling Unit – Detached standards. Detached Accessory Dwelling Units shall be subject to the following additional standards:

- (1) The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than *??* percent of a rear yard.
- (2) Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1 ½ stories in height.
- (3) Any detached accessory building approved after _____, containing an accessory dwelling shall comply with setbacks as follows:
 - i. For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen *(or ten)* feet to a side lot line or fifteen feet to a rear lot line;
 - ii. For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty *(or fifteen)* feet to a side lot line or twenty feet to a rear lot line; and
 - iii. When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.
- (4) No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.

- (5) A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.
- (6) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single family home.
- (7) A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit is permitted.
- (8) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.
- (9) Detached nonconforming accessory buildings with the exception of gazebos existing prior to May 18, 2019, may be altered to make interior *(strike interior?)* alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling provided the detached accessory dwelling unit can meet the following additional requirements:
 - 1) No Maximum square footage of _____ (only so much can be used for the ADU)
 - 2) Any entrance to an ADU located on an alley must be at least 5 feet from the property line adjacent to the alley.
 - 3) On interior lots ... *the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line UNLESS the nearest wall of the accessory building is at least 15 feet from the nearest wall of the neighboring structure. If an ADU is located in an accessory building that is within the setback, no window or HVAC unit shall be located on the wall closest to the property line.*
 - 4) On corner lots ...
 - 5) Some allowance for ADU reduced rear and/or side yard setback when adjacent to an “alley”
 - 6) Bigger setbacks to road than to alley (see Arlington County B.3.)
 - 7) Maximum height (similar to what is in maximum height *Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height*)
 - 8) Bay window additional allowance to encroach into setback (or just reference Article 4 that allows this additional encroachment for bay windows?)
 - 9) A post and beam structure such as a carport that is located within a yard setback may have exterior walls infilled between the posts and still comply with this section provided the all other standards found in this section can be met. *(to allow carport and gazebo conversions)*

F. Administration.

- (1) Illegal accessory apartments in detached structures are required to seek approval for the detached accessory apartment through the conditional use permit **and the accessory apartment must meet all requirements thereof.**
- (2) **Legal nonconforming ADUs may continue to exist as is.**
- (3) Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.

§420-20.1. Definitions

ACCESSORY APARTMENT

~~A residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet.~~

ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

ACCESSORY DWELLING UNIT - DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.