Special Council Meeting
January 15, 2002

A Special Council meeting of the Elkton Town Council was held Tuesday, January 15, 2002 in Council Chambers with Mayor M. Lee Dearing presiding. The roll call was as follows:

PRESENT
J. T. Dean
C. H. Murphy
M. S. O'Neill
T. Pence
W. E. Printz
L. Sigafoose

Attorneys J. Burns Earle and Lauri Sigler, Dusty Rhodes, attorney representing Waterfront Properties, and Richard Carey, Clerk of Council, were also present.

Mayor Dearing stated the purpose of the meeting was to consider a Special Use Permit for Waterfront Properties to operate Our Shenandoah Home, an assisted living facility located at 102 North Stuart Avenue in Elkton.

Appreciation was expressed to Councilman O'Neill for purchasing and installing a system integrated with the public address system whereby Council meetings would be video taped. This was the inaugural meeting utilizing such a system.

Councilman O'Neill moved, second by Councilwoman Murphy, and carried to grant a Special Use Permit to Our Shenandoah Home subject to the following conditions:

1. The special exception permit shall be issued to Waterfront Properties, LLC, and shall be non-transferable. A new permit application will be required within 60 days of a change of 51 percent or more of the original owners or investors in Waterfront Properties, LLC as of January 15, 2002. The permit shall apply to Tax Map Numbers 131B2-1B29-7, 131B2-1B29-8, 131B2-1B29-9 and 131B2-1B29-9 ½.
2. The use of the property is limited to the operation of a "home for adults" as defined in Section 110-302 of the Elkton Town Code, on January 1, 2002, housing only residents not requiring confinement for their own protection or the protection of others.

   The facility shall not change the level or nature of care provided to its residents. If the facility would like to change the level or nature of care provided to its residents the owner must apply for a new special exception permit or an amendment to its existing permit pursuant to all the provisions and procedures outlined in Section 110-802 (C) of the Elkton Town Code, as amended.
3. Waterfront shall be in compliance with all local, state, and federal rules, regulations, and laws.
4. Whenever possible, no deliveries, except for emergencies, shall be made to the facility before 6:00 A.M., or after 6:00 P.M., and all deliveries shall be made at the side service entrance.
5. Waterfront shall be responsible for maintaining the alley from its intersection with Spotswood Avenue to the entrance of the parking lot for a distance of 270 feet.
6. No additional expansion shall be allowed to the existing facility, structures and/or property without the approval from the Elkton Town Council. If required by Town Council, Waterfront shall seek approval of the Town Council by applying for a new special exception permit or an amendment to its existing permit pursuant to all the provisions and procedures outlined in Section 110-802 (C) of the Elkton Town Code, as amended.
7. Any water and/or sewer upgrades shall be paid by Waterfront as reasonably determined by the Town of Elkton.

8. Occupancy by residents shall be limited to 63 individuals. Residential occupancy by non-residents shall be limited to the owner/operator and one full-time staff person, unless required otherwise by state or federal laws or regulatory agencies.
9. Waterfront shall make all efforts to insure the safety, care, and control of the residents of the facility and shall immediately take whatever corrective action is necessary to insure the same.
10. Waterfront shall provide adequate off-street parking for all residents, employees, and visitors and shall take reasonable efforts to prevent the residents, employees, and visitors from using the on-street parking in front of neighboring properties. Parking shall not be allowed in the alley. The parking lot on the property shall be maintained by Waterfront.
11. Waterfront shall not use the Elkton Volunteer Rescue Squad for non-emergency trips and agrees that it will not charge residents for any transportation provided by the Elkton Volunteer Rescue Squad.
12. Waterfront shall allow Elkton Town Officials to have access to the facility.
13. Waterfront shall be responsible for any fees allowable under Virginia State law incurred by the Town in enforcing the conditions of this permit or any local, state, or federal laws for which it is found to be non-complaint in a court of law.
14. Waterfront shall make all efforts to prevent any resident, employee, or the facility from disturbing the peace, integrity, or safety of the community and shall immediately take whatever corrective action is necessary to resolve and prevent future incidents should they occur.
15. Any person, firm, or corporation violating any of the terms and provisions of this permit shall be subject to the same penalties provided in Sections 110-1103 and 1104 of the Elkton Town Code, as amended.
16. Upon 5 days notice, the mayor or his designate shall be allowed to review the result of any inspections of the facility on the facility premises results.
17. The house and property know as Tax Map No 131B2-1B29-6, located at 106 North Stuart Avenue adjacent to the lots on which the facility resides, is not covered by this Special Exception Permit and is therefore subject to all zoning restrictions of a private residence in the zone in which it resides.
18. Waterfront shall maintain signage within the current zoning regulations which include one nine (9) square foot sign.

Councilman Printz complimented Councilman O'Neill and the Town attorneys on the incredible amount of work and time that were dedicated to this project.

Councilman O'Neill stated the conditions of the Special Use Permit would allow Our Shenandoah Home to operate effectively, while providing protection against some past problems. If Our Shenandoah Home operates in a responsible manner, these conditions would not hinder them from operating a profitable business.

Councilman Pence asked for clarification of Condition Number 16. He believed 5 days gave the management time to correct any problems before Council could investigate any serious complaint. Several persons spoke up and said that Condition Number 12 addressed Council's immediate access to investigate any serious allegation. Councilman O'Neill stated he was very sensitive to Council's ability to act quickly. Condition 16 allows Our Shenandoah Home the time necessary to assemble and present information which may be requested by Council but which may not be of an urgent nature.

Councilman Printz prefaced his pending negative vote by saying he believed initially Council was mislead, or information was intentionally, or not, withheld regarding the ownership or partnership of Our Shenandoah Home. He felt deceived and manipulated by not only the information shared but also by the information withheld. He favored a business of this type in Elkton. Councilman Printz believed the element of trust had been violated and he was concerned that future manipulation was possible because the precedent had been set.

Councilman O'Neill wanted Council to understand that not all the conditions were negotiated, nor were all mutually agreeable, citing the non-transferable condition as an example.

Councilman Sigafoose expressed displeasure with previous information provided by the investors of Our Shenandoah Home and that information appearing to have not been accurate. He referred to Donna King Smith as the operator of the facility. Councilman Sigafoose was also concerned that bed-ridden residents would be housed at Our Shenandoah Home. Mayor Dearing explained that if the State allowed bed-ridden persons in an assisted living facility then it was not an option for the Town Council to deny such care.

YEAS: M. S. O'Neill, J. T. Dean, and C. H. Murphy

NAYS: L. Sigafoose, W. E. Printz, and T. Pence

Mayor Dearing broke the tie with a YEA vote.

Motion carried (4-3)

Attorney Rhodes addressed Council and said his attendance was not to create an adversarial environment. He was there to advocate "reasonableness. He wanted to make sure the words in the conditions would be interpreted by future Councils as this Council intended them to be. He agreed Council should not lose control of its Town but hoped Council was not constraining Our Shenandoah Home to do business in Elkton in a manner unlike other businesses in Town. Mr. Rhodes stated it had not always been a pleasant project and some of the conditions were not palatable to Waterfront Properties but, if Our Shenandoah Home "did the right thing" then the conditions would become non-issues.

As there was no further business, the meeting was adjourned.

MAYOR: M Lee D
M. Lee Dearing, Mayor

RECORDER: Richard D. Carey
Richard D. Carey, Clerk