

REGULAR MEETING

SEPTEMBER 12, 2000

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Carolyn W. Frank; City Manager Roger Baker; City Attorney Thomas H. Miller, Jr., Vice-Mayor Dorn W. Peterson; Council Member Larry M. Rogers, Hugh J. Lantz, and Joseph Gus Fitzgerald; City Clerk Yvonne ABonnie@ Ryan, CMC/AAE, and Police Captain Malcolm Wilfong. Absent: Chief of Police Donald Harper.

Council Member Lantz delivered the invocation and Mayor Frank led everyone in the Pledge of Allegiance.

Vice-Mayor Peterson offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the Police Department and a contract with an engineering firm for development of a natural gas storage system. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by CBL & Associates to amend the Comprehensive Plan's Land Use Guide classification from General Industrial to Commercial for the full acreage of tax map parcels 13-B-9, 13-B-1 through 3, 13-C-2 through 5, and portions of 13-C-6, 13-E-8, 13-B-4 through 8, and 30-A-1 and 2. The parcels are located Northeast of Country Club Road at the intersection of Linda Lane. The Comprehensive Plan's Use Guide recommends the area for General

Industrial use. Mrs. Turner explained that this designation applies to areas intended for light and general manufacturing, wholesaling, warehousing, high technology, research and development, and related activities. The applicant is seeking to change the designation to Commercial, which is intended for retail, wholesale, or service functions typically found along the major travel corridors and in the central business district of the City. She said that currently located on the site are the Shenandoah Beverage Company distribution facility, several storage buildings, a satellite dish retailer, and a produce vendor all zoned M-1, General Industrial District. She reviewed the surrounding zoning classification which includes a mixture of R-1 Single-Family Residential District, M-1 General Industrial District, B-2 General Business District, single family homes, and an undeveloped lot. She said that staff consulted with Mr. Brian Shull, the City's Director of Economic Development, concerning the appropriate use for this property. Mr. Shull said that the best use of the property is for commercial development. According to Mr. Shull, because of the site's close proximity to the interstate and commercial growth along the East Market Street corridor, its high visibility and good location makes the site more suitable for commercial than industrial. She said that Staff and Planning Commission recommended amending the Comprehensive Plan to designate this area for Commercial rather than General Industrial Use.

At 7:40 p.m., Mayor Frank closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, August 28, and Tuesday, September 5, 2000.

## **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, September 12, 2000 at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:**

### **COMPREHENSIVE PLAN AMENDMENT**

**Request by CBL & Associates to amend the Comprehensive Plan's Land Use Guide classification from General Industrial to Commercial for the full acreage of tax map parcels 13-B-9, 13-B-1 through 3, 13-C-2 through 5, and portions of 13-C-6, 13-E-8, 13-B-4 through 8, and 30-A-1 and 2. The parcels are located Northeast of Country Club Road at the intersection of Linda Lane. The Comprehensive Plan states that General Industrial areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities, whereas Commercial areas include retail, wholesale, or service functions found along the major travel corridors and in the Central Business District of the City.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at this public hearing.**

**Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against amending this Comprehensive Plan's Land Use Guide.

Gloria Freye, an attorney representing the applicant CBL and Associates, expressed her thanks to the City and Mrs. Stacy Turner and her staff. She said it was a pleasure to work with a great community on this project. There were issues to deal with, but the company received a lot of cooperation in addressing the issues. Signage has been recommended to be installed both before and after the driveway of the Islamic Association property because the driveway is very close to the bridge piers of Interstate 81 and to alert motorists of the driveway. The entrance to Country Club Court Townhomes and Blue Ridge Drive has some right-of-way allowing the area to be widened providing a short turn lane. Jack Osbourn, vice-president of Superior Concrete, said the project would be an asset to the area. He did express concern that the property east of Linda Lane extended should remain industrial because Superior Concrete would like to expand its operation in the future.

Frank McMillian, President of Country Club Court Townhomes, said he was in favor of the development. He also said that he hoped improvements would be made to Country Club Road because it does have a lot of traffic and several blind spots. Country Club Court has 124 units with one way in and one way out.

There being no others desiring to be heard, the public hearing was declared closed at 7:50 p.m., and the regular session reconvened.

Council Member Lantz commented that CBL and Associates have been very cooperative with the City and these off-site improvements will benefit the City. The project will be a big asset for the City.

Council Member Lantz offered a motion to amend the Comprehensive Plan. The recorded roll call vote was taken as follows:

Vote:      Yes -      Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by CBL & Associates to rezone the full acreage of tax map parcels 13-B-1 through 3, 13-B-9, 13-C-2 through 5, and portions of 13-C-6, 13-E-8, 13-B-4 through 8, and 30-A-1 and 2 from M-1 General Industrial District to b-2 General Business District (conditional). She explained that staff believes that the B-2 classification would be more compatible with existing residential and commercial development in that area. She said that CBL & Associates has made several proffers including that the retail center will probably include a home improvements store, department store, and other uses such as out parcels containing restaurants. CBL & Associates has submitted a long list of proffers which include use restrictions stating that no auto or truck sales, bus terminals, or truck stops or funeral homes will be constructed on the property. In addition, they have proffered road improvements to the existing Linda Lane, East Market Street and Country Club Road, as well as the installation of a traffic signal at the intersection of Blue Ridge Drive and Country Club Road. They also proffered that they will extend Linda Lane to the bridge over the railroad to go to the entrance of the proposed shopping center. They will add sidewalks and bike lanes. Staff is satisfied with the submitted proffers and has recommended approval of the rezoning too commercial and Planning Commission has also unanimously recommended approval.

At 7:51 p.m., Mayor Frank closed the regular session and called the evening s second public hearing to order. The following notice appeared in the Daily News-Record on Monday, August 28, and Tuesday, September 5, 2000.

## **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, September 12, 2000 at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:**

### **REZONING**

**Request by CBL & Associates to rezone the full acreage of tax map parcels 13-B-1 through 3, 13-B-9, 13-C-2 through 5, and portions of 13-C-6, 13-E-8, 13-B-4 through 8, and 30-A-1 and 2 from M-1 General Industrial District to B-2 General Business District (Conditional). The parcels are located Northeast of Country Club Road at the intersection of Linda Lane. The B-2 district allows a wide variety of retail shopping, commercial, recreational, and service activities. The Comprehensive Plan recommends the site for General Industrial use, which is intended for light and general manufacturing, wholesaling, warehousing, high technology, research and development, and related activities. No minimum lot size restrictions exist in the M-1 General Industrial District or the B-2 General Business District.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at this public hearing.**

**Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.**

## **CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against approving this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:52 p.m., and the regular session reconvened. Vice-Mayor Peterson offered a motion to approve this rezoning request. The recorded roll call vote was taken as follows:

Vote:      Yes -      Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Planning and Community Development Director Turner introduced a request by Harrisonburg-Rockingham Community Services Board to rezone tax map parcel 42-B-B (1351 North Main Street) from R-2 Residential District to B-2 General Business District (conditional). She explained that the parcel is located at 1351 North Main Street. Several land uses are located on and adjacent to this property including R-2 Residential District, B-2 General Business, a mixture of M-1 business uses, and R-4 zoning classifications. The Comprehensive Plan recommends the site for Commercial use, which includes retail, wholesale, or service functions found along the major travel corridors and in the Central Business District of the City. Mrs. Turner reviewed the proffers submitted by the applicant and noted that restaurants, night clubs, movie theaters, car dealerships, public utilities/transportation buildings, telephone exchange and transformer or substations, and wholesale/retail warehousing would be excluded from use. She also noted that no improvements constructed on the property would exceed three stories or 40 feet in height. She said that Planning Commission recommended approval of the proposed rezoning.

At 7:59 p.m., Mayor Frank closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, August 28, and Tuesday, September 5, 2000.

## **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, September 12, 2000 at 7:30 p.m. in the City Council Chambers, 345 South Main Street, to consider the following:**

### **REZONING**

**Request by Harrisonburg-Rockingham Community Services Board to rezone tax map parcel 42-B-4 from R-2 Residential District to B-2 General Business District. The parcel is located at 1351 North Main Street. The B-2 district allows a wide variety of retail shopping, commercial, recreational, and service activities. No minimum lot size restriction exists in the B-2 district. The Comprehensive Plan recommends the site for commercial use, which includes retail, wholesale, or service functions found along the major travel corridors and in the Central Business District of the City.**

**Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at this public hearing.**

**Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against approving this rezoning request.

-

Lisa Hawkins, attorney with the law firm of Wharton, Aldhizer, and Weaver, explained that she was representing Community Services Board (CSB) in support of their zoning application. Representatives of CSB had expressed to the current owner of the property that if she were ever interested in selling the property, they would be interest in discussing the matter. Earlier this year the property owner approached CBS and indicated she was ready to sell. The CBS does not have any current plans for any construction or renovation on the site. The building will be used for storage or a computer lab for employee training or may be used as temporary office space. No client services will be provided out of this building. There are no immediate plans for modifying this structure.

There being no others desiring to be heard, the public hearing was declared closed at 8:01 p.m., and the regular session reconvened. Council Member Rogers offered a motion to approve this rezoning request. The recorded roll call vote was taken as follows:

Vote:      Yes -      Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

At 8:02 p.m., Mayor Frank closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, August 28, and Tuesday, September 5, 2000.

### NOTICE OF PUBLIC HEARING

**A public hearing will be held by the Harrisonburg City Council on Tuesday, September 12, 2000 at 7:30 p.m. in the Harrisonburg Municipal Building, 345 South Main Street, Harrisonburg, Virginia. The purpose of this public hearing will be to get citizen input concerning a proposed increase in the City's Public Transportation Fund 2000-2001 budget in the amount of \$910,115.00. These funds will be used by the City to purchase five transit buses.**

**Any individual requiring auxiliary aids, including signers, in connection with the public hearing, shall notify the City Manager at least five (5) days prior to the date of the meeting.**

#### CITY OF HARRISONBURG

**Roger D. Baker**

**City Manager**

Mayor Frank called on anyone desiring to speak for or against approving the funding for these buses.

Transportation Director Smith explained that these funds will be used to purchase five transit buses. These buses were ordered last fiscal year, but not received. Federal and State funds will reimburse the City once the buses are received. Council Member Lantz offered a motion to approve this request for a first reading.

\$728,092.00 chge. to: 2013-33305 Transit Cap Grant Cap - Fed

78,270.00 chge. to: 2013-32518 Transit Capital Grant - State

103,753.00 chge. to: 2013-31010 Amount from fund balance

\$910,115.00 approp. To 2013-872081-48253 Transit buses

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Dr. Crystal Theodore appeared before City Council making a presentation for the Shenandoah Council of the Arts. She introduced members of the Board of Director of the Shenandoah Council of the Arts which includes Dr. Phil James (Vice-President of the SCA), Trish Philon (Blue Ridge Theater Festival), Bonnie Hobson (Harrisonburg Public Schools), Nancy Bondurant Jones (Harrisonburg Pen Women Literary Arts), Joan Knight (Director and Curator of the Virginia Quilt Museum), Joan Strickler (Director of First Night), Dr. Cole H. Welter (Professor of Art and Director of the School of Art and Art History at James Madison University), Lei Wong (Shenandoah Valley Watercolor Society), Paul Cline (member of OASIS), and Joanne Gabbin (owner of a private art gallery at 150 Franklin Street). She said that the Shenandoah Council of the Arts has several goals including helping to revitalize downtown Harrisonburg. SCA would like to develop a rich culture area on Main Street. Dr. Theodore said that while the arts continue to grow in nearby communities, Harrisonburg lags behind. The Shenandoah Council of the Arts is a non-profit organization that intends to establish an art gallery called OASIS at 103 South Main Street formally occupied by the Sycamore House Gallery. OASIS is SCA's first effort to enrich the art scene and enhance other arts such as drama and music. She also said since it is too late in the year to apply for grant money, the Shenandoah Council of the Arts is seeking start-up support from the City of Harrisonburg totaling \$75,000 over a five-year period to establish a cooperative art gallery and corporate office at 103 South Main Street in the City. It will also help continue the development of South Main Street as Harrisonburg's Acultural corridor in concert with the Quilt Museum, relocated Visitor's Center, new library, and Court Square Theater. Other members of the Board of Directors presented a business plan totaling \$75,000 over a five-year period, noting that dues paid by members will help with the operating plans, private and corporate funds will help support the organization, and every dollar spent on the arts would be an investment that would attract tourists and produce more dollars. Joanne Gabbin, owner of 150 Franklin Street Galley, also asked City Council for an annual grant of \$15,000 for the next five years to support her private gallery. She explained that the mission of the gallery is to promote the appreciation and sale of multicultural fine art and to assist local and regional artists in exhibiting their art and benefiting from its sale. Council Member Rogers commented that establishing AOASIS@ the non-profit art gallery would blend in well with the City's plans of developing a downtown cultural zone. Following further discussion and comments, Council Member Rogers made a motion directing City Manager Baker and his staff to make recommendations on how to support each of the arts proposals at the next City Council meeting.

The presentation by Valley Stargazers Club was withdrawn.

Bob Bersson presented an overview on the major entrances into Harrisonburg. He said that Harrisonburg can be a great center of technology, commerce, recreational, arts and culture; however, it is time to improve the landscaping and signs of the entrances into the City. He questioned if anyone knew what the image was on the signs at the entrances into the City. He compared Harrisonburg's signs with other small towns in the area. He said that the design of the signs could be improved, place the signs in better locations because some signs are lost in a maize of grassy islands with no landscaping and blend in with other signs. He also suggested that better landscaping would be a big improvement. Council Member Rogers noted that several organizations and garden clubs are working on beautification projects. City Manager Baker said that staff is working on improving the entrances into the City; however, he noted that the current signs were designed by a professional designer and donated to the City at no cost. Mr. Baker also pointed out that Harrisonburg has at least ten to fifteen entrances while smaller towns only have one or two entrances which can be maintained by one person.

Police Captain Wilfong introduced a request from the residents of Greenbriar Drive for permit parking. He explained that the residents of Greenbriar Drive have submitted a petition requesting that the area be changed to a permit parking area. The overflow parking from Village Lane onto Greenbriar Drive has caused parking problems, blocked mail boxes, interrupted snow removal, litter and trash problems. He said that the residents are requesting that their street which currently has no parking restriction be changed to a Ablue zone with a 24 hour, seven days a week restriction of parking and a tow away zone. He said that the Police Department supports the request even though it fails to meet City criteria for such a designation. Council Member Fitzgerald offered a motion to approve this request from the Greenbriar Drive residents as presented. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

Council Member Lantz offered a motion to designate a City official either the City Manager or the Mayor to sign all deeds on behalf of the City for a first reading. The City Attorney has advised that state law now requires all deeds be signed as accepted. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

City Manager Baker presented a request from Coldwell Banker Horsley and Costable. Rodney Williams representing Coldwell Banker, Horsley and Constable requested that the City close a portion of the street around Court Square to host a Fire Safety Day on October 14th to kick off National Fire Safety Week. Council Member Lantz offered a motion to approve this request. The motion was approved with a unanimous vote of Council.

Council Member Lantz offered a motion to approve the cancellation of the October 24 and December 26 Council meetings and to schedule a work session with the City's Department Heads on October 17. The motion was approved with a unanimous vote of Council.

City Attorney Miller presented for Council's consideration amending Section 4-2-62 of the Harrisonburg City Code. He explained state law requires these changes due to the deregulation of the electric and gas industry. In the past, taxes have been collected based upon a percentage of the dollar amount of the bill. Everyone in the Commonwealth will be collecting tax based upon quantity of utility purchased which is a kilowatt hour of electric and a cubic foot of gas. The General Assembly has stated that localities must make this conversion on a revenue neutral basis as best as can be done. It is a very complex process. Mr. Miller said that the language for the ordinance is still being discussed and reviewed. Council Member Lantz offered a motion to amend the code to reflect the changes to Section 4-2-62 of the Harrisonburg City Code for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Fitzgerald

Vice-Mayor Peterson

Council Member Rogers

Council Member Lantz

Mayor Frank

Absent - None

The agenda items for two supplemental appropriations for the Police Department for a School Resource Officer and State and Federal drug forfeiture funds for computers has been postponed until the September 26 meeting.

Chris Watkins, a resident of Greenbriar Drive, requested that the \$300 application fee be waved to start a rezoning process for the neighborhood. She said that most of the residents thought they lived in an R-1 zoning classification; however, through annexation most of the lots were changed to the R-4 zoning classification. Planning and Community Development Director Turner pointed out that even if the proposed rezoning is approved, existing rental properties could continue to operate as they are now as a non-conforming use unless they ceased existing as rental property for 24 months. Council Member Lantz said, AHe was very sympathetic with the Greenbriar residents, but waving the \$300 fee could set a precedent for other similar requests.@

City Manager Baker announced that the Board of Juvenile Justice has recently reviewed material concerning the Harrisonburg Office on Children and Youth's compliance with Board of Juvenile Justice Standards for Delinquency Prevention. The Board recognized the program's excellent performance level of 100% compliance.

City Manager Baker announced that he had received an e-mail from Bob Herbert, Center for Organizational and Technological Advancement at Virginia Tech, requesting that Harrisonburg send a team consisting of the City Manager, City Attorney, Director of Public Works, and a member of City Council to an environmental training workshop November 8, 9, and 10 in Roanoke, Virginia. The focus of the training is on hazardous waste in the governmental waste stream.

At 9:55 p.m., Vice-Mayor Peterson offered a motion that Council enter a closed session for discussion and consideration of persons to be appointed to the Harrisonburg Parking Authority, Harrisonburg Planning Commission, Harrisonburg Parks and Recreation Commission, Harrisonburg Redevelopment and Housing Authority, Harrisonburg Electric Commission, Harrisonburg Building Code Board of Appeals, Harrisonburg Social Services Advisory Board, Harrisonburg Industrial Development Authority, and the Harrisonburg Commission on Children and Youth. In addition, for the discussion of the performance of specific public officers. A closed session is permissible for both purposes pursuant to Section 2.1-344(A)(1) of the Code of Virginia, 1950, as amended (the Code). In addition, for the discussion of the acquisition of real property for a public purpose. A closed session is permissible for this purpose pursuant to 2.1-344(A)(3) of the Code of Virginia, 1950 as amended.

At 10:42 p.m., the closed session was declared closed and the regular session reconvened. The following statement was agreed to with a unanimous recorded vote of the Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public matters as were identified in the motion by which the executive or closed meeting were convened, were heard, discussed or considered in the closed session by the City Council.

Vice-Mayor Peterson offered a motion that John P. Nardi, 453 A. West Water Street, be appointed to fill the unexpired term of Robert ARobin@ Wells to expire on November 28, 2001 on the Harrisonburg Parking Authority. The motion was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that Mary R. Boyer be appointed to fill the unexpired term of Curtis Kite to expire on November 28, 2001 on the Harrisonburg Parking Authority. The motion was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that Roland M.L. Santos, 701 Ohio Avenue, be appointed to fill the unexpired term of Dennis A. Larosa to expire on April 24, 2003 on the Harrisonburg Industrial Development Authority. The motion was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that Kelly Sharpes, 741 Wyndham Woods Circle, be appointed to the Office on Children and Youth as a City representative. The motion was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that Seth Wilson, 306 West Water Street, be appointed to the Office on Children and Youth as a Harrisonburg High School student representative. The motion was approved with a unanimous vote of Council.

Vice-Mayor Peterson offered a motion that Tonya Osinkosky Perez be re-appointed to the Office on Children and Youth for a term to expire July 2004. The motion was approved with a unanimous vote of Council.

At 10:58 p.m., there being no further business and on motion adopted the meeting was adjourned.

---

CLERK

---

MAYOR