

REGULAR MEETING

NOVEMBER 8, 2005

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; Hugh J. Lantz; and George W. Pace; City Clerk Yvonne "Bonnie" Ryan, CMC/MMCA, and Chief of Police Donald Harper.

Council Member Pace gave the invocation and Mayor Rogers led everyone in the Pledge of Allegiance.

Bucky Berry, a resident of Harrisonburg, said the City should discontinue issuing decals for vehicles.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the Police Department. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Abstained - Council Member Pace

Absent - None

Planning and Community Development Director Turner introduced a request by William D. Yount, Jr., to rezone a parcel located at 1171 South High Street. She said that the request is to rezone a portion (1,270 sq. ft.) of a lot from M-1, General Industrial District to B-2C, General Business District Conditional. She reviewed the surrounding uses in the area. The two lots identified as 1171 South High Street were rezoned from R-1 and R-2 to B-2C in April of 2004 to allow the applicant to develop a small strip retail complex. Since that time the subdivision was approved in May of 2005 to vacate an existing property line and allow for a bump-out in the northern property line to accommodate the new building; however, the existing M-1 zoning remains on the small addition of land. The applicant would now like to rezone the small portion of newly subdivided land to match the existing zoning on the property at 1171 South High Street. The proposed conditionally zoned property includes proffers identical to those approved for the previous rezoning. The proffers include: 1) There shall be no parking on the rear of this property between any structures and the adjoining R-1, residential neighborhood. 2) All lighting on the rear of the property shall be of a low intensity, residential nature. 3) A fence shall be constructed and maintained along the rear property line behind 1171 South Main Street. This fence is to be

six feet high and constructed of a solid, opaque material. Certain uses are excluded from taking place on this property including hotels/motels, vehicle repair shop, facilities for vehicle refueling, adult book stores, fast food restaurants, and convenience stores. The rezoning of this lot will provide a uniform zoning for this parcel, with proffers that will help mitigate the commercial impact of this property on the single-family homes to the rear of this development. She said that Planning Commission recommended approval of the request.

At 7:44 p.m., Mayor Rogers closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Tuesday, October 25, and Tuesday, November 1, 2005.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on November 8, 2005 at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

#### **Rezoning – 1171 South High Street**

**Public hearing to consider a request from William D. Yount, Jr. to rezone a portion (1,270 sq. ft.) of a lot from M-1, General Industrial District to B-2C, General Business District Conditional. The property is located at 1171 South High Street and can be found on tax map 20-F-1.**

**The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.**

**The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in 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 these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearings 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 Rogers called on anyone desiring to speak for or against this rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:45 p.m., and the regular session reconvened. Council Member Chenault offered a motion to approve this rezoning request as presented. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent - None

Planning and Community Development Director Turner introduced a request from Christophel Properties to rezone three lots totaling 21,771 sq. ft., located at 1043, 1045, and 1047 Virginia Avenue. She reviewed the surrounding uses in the area. The Comprehensive Plan designates this area as Neighborhood Residential. The applicant is requesting to rezone three lots from M-1, General Industrial District to R-2C, Residential District Conditional. Several nearby lots fronting along Virginia Avenue have recently been rezoned from M-1 to R-2. The lots directly to the south of the parcels were rezoned from M-1 to R-2 in 2002. Further to the south, across the undeveloped Sixth Street right-of-way, two lots were rezoned in July of 2005 from M-1 to R-2 to allow a duplex to be constructed. This rezoning would bring the use of the lots closer to conformance with the Comprehensive Plan. The applicant has proffered several conditions to address some concern of staff and the surrounding property owners. These proffers include: 1) Build a single family dwelling on lot or one duplex and one single family home. 2) Meet the sight distance as established by the Design and Construction Standards Manual. 3) Share one ingress and egress onto Virginia Avenue. 4) Establish a shared maintenance and access agreement easement among the three lots. She said that R-2 allows single-family and duplex; however, this property could be developed with three single-family homes or one single-family home and one, two-unit duplex unit. Sight distance would be met as established by the City's Design and Construction Standard Manual for any entrance onto Virginia Avenue. For the access easement there would be a shared maintenance and access agreement easement among the three lots to provide for its maintenance. She said that Planning Commission recommended approval of the request.

At 7:50 p.m., Mayor Rogers closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record Tuesday, October 25, and Tuesday, November 1, 2005.

#### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on November 8, 2005 at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:**

**Rezoning – 1043, 1045, 1047 Virginia Avenue**

Public hearing to consider a request from Christophel Properties, with representative Paul Christophel to rezone three lots, totaling 21,771 sq. ft., from M-1, General Industrial District to R-2, Residential District. The properties are located at 1043, 1045, 1047 Virginia Avenue and can be found on tax map 39-K-4,5,6.

The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots.

The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The R-2, Residential District is intended for medium-density, single-family and two-family residential development. The residential density ranges for R-2 are single-family, 7,000 sq. ft. minimum and two-family, 5,500 sq. ft./unit.

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 these public hearings. Any individual requiring auxiliary aids, including signers, in connection with the public hearings 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 Rogers called on anyone desiring to speak for or against this rezoning request.

Paul Christophel owner of the property said he was available to answer any questions for Council. There being no others desiring to be heard, the public hearing was declared closed at 7:51 p.m., and the regular session reconvened. Council Member Pace offered a motion to approve this rezoning request from M-1 to R-2C with the submitted proffers. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent - None

Planning and Community Development Director Turner introduced a request from Boris and Nora Caballero to close 3,130 sq. ft. of an alley adjacent to their properties located near the corner of East Washington and Myrtle Street. The applicant is requesting to close a portion of two, ten-foot City alleys near the corner of East Washington Street and Myrtle Street. The first proposed alley closing would close the section between 173 and 179 East Washington Street. The lot that runs perpendicular to East Washington Street is bounded on both sides by properties belonging to the applicant. The alley that runs from Myrtle Street to Harris Street has several adjacent property owners. This alley right-of-way is not developed and cannot be used by vehicular traffic. She reviewed the surrounding uses in the area. She said at the Planning Commission public hearing several property owners expressed their concern about having access to their properties and not being able to access some fences that have been constructed on their property lines. It was explained that whenever an alley is closed all of the adjacent property owners are given the chance to purchase their adjacent part or assign it to another property owners in the area. These property owners stated that they were not prepared or interested in purchasing the property. After listening to these concerns, Planning Commission recommended only closing a portion of the alley that runs north to south.

At 7:56 p.m., Mayor Rogers closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record Saturday, October 29, and Saturday, November 4, 2005.

**NOTICE OF INTENTION TO VACATE  
A PORTION OF TWO (2) TEN FOOT WIDE ALLEYS  
LOCATED ON THE SOUTH SIDE OF EAST WASHINGTON STREET  
AND BETWEEN 173 AND 179 EAST WASHINGTON STREET  
IN THE CITY OF HARRISONBURG**

**City Council Chambers  
345 South Main Street  
Harrisonburg, VA 22801  
Tuesday, November 8, 2005  
7:30 P.M.**

The Harrisonburg City Council will hold a public hearing on Tuesday, November 8, 2005, 7:30 P.M., at City Council Chambers, 345 South Main Street, Harrisonburg, Virginia, to consider an application, by Boris R. Caballero and Nora C. Caballero to vacate an undeveloped portion of two (2) ten foot wide alleys the first containing approximately 1600 square feet and located south of East Washington Street in the City of Harrisonburg, Virginia and the second containing approximately 1530 square feet and located between 173 and 179 East Washington Street in the City of Harrisonburg, Virginia.

A copy of the recommendations of the City Planning Commission along with a copy of the plat showing the portions of the ten foot wide alleys to be vacated are available at the Community Development Department, 409 South Main Street, Monday through Friday.

All persons interested will have an opportunity to express their views at this public hearing.

**CITY OF HARRISONBURG**  
**Roger D. Baker,**  
**City Manager**

Mayor Rogers called on anyone desiring to speak for or against this alley-closing request.

Alva Clemens said that she was the daughter of Roland Williams. She expressed concern about the tires and vehicles that are near her father's property, which are from the applicant's business. If a five foot fence is installed her father will feel like a prisoner in his own house. She said his house is his life and he was worried about the property values. He uses the alley to utilize the back of his property. She also asked that the applicant clean up the alley.

Dan Neher an attorney representing the applicant said they concurred with the Planning Commission's recommendation to only close a portion of the alley that runs north to south leaving the east-west alley open to alleviate the concerns of the neighbors. There being no others desiring to be heard, the public hearing was declared closed at 8:10 p.m., and the regular session reconvened. Council Member Chenault offered a motion to only close a portion of the alley that runs north to south between the applicant's properties as recommended by Planning Commission. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent - None

Planning and Community Development Director Turner introduced a request from Roger and Patricia Simmons to rezone 2.55 acres at 1161 West Market Street from R-1, Single Family Residential District and B-2, General Business District to B-2C, General Business District Conditional. She said that this agenda item was tabled at the October 11, 2005 Council meeting to allow sufficient time for the owners of Harrisonburg Oasis to meet with Roger and Patricia Simmons. Mrs. Turner said in addition to the previously submitted proffers additional proffers have been submitted. The proffers include that any proposed buildings will not exceed 35 feet in height, dumpsters will be screened, no free standing signs greater than twenty feet, and that site lighting will be diverted downward and meet City requirements. Following further discussion and comments, Council Member Lantz offered a motion of approve this rezoning. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent - None

The next item of business was a presentation by representatives from Canaan Valley Institute. Canaan Valley Institute has been working with the City and other partners for the past six months completing a design plan to restore certain portions of Blacks Run in Purcell Park. Ed Watson, a hydrologist for Canaan Valley Institute, said CVI is involved in restoration and assessing the stream's ability to pass water and sediment. They are also reviewing the conditions and stability of the stream banks. He reviewed the components of stable natural streams and causes of instability. Stream erosion is threatening existing facilities in Purcell Park. Blacks Run has been designated as "impaired" for aquatic organisms, sediment is one of the pollutants. As much as 50% of the sediment loading in Blacks Run comes from bank erosion. If nothing is done erosion will continue and require frequent maintenance. The best option is to restore the streams to appropriate pattern, dimension, and profile. Design highlights include improve dimension, pattern and profile of the two streams, use rock structure to maintain grade around critical infrastructure, and stabilize banks. Suggested maintenance changes in Purcell Park include remove double culvert, remove low-water crossings, minimize number of bridges, replace remaining bridges with greater spans, and exclude cutting vegetation a minimum of 10 feet from channel. Goals of this design include reduce sediment inputs from bank erosion, reduce maintenance and threats to infrastructure, improve aquatic habitat, increase biological diversity, and demonstrate the concept and benefits of physically and ecologically healthy streams in an urban environment. The total cost of the project is \$285,000, which includes equipment, materials, construction supervision, revegetation planting. Following further discussion and comments, Council Member Pace offered a motion to endorse this design plan to restore stream banks of Blacks Run in Purcell Park. The motion also included setting aside \$75,000 to be included in the 2006-2007 Capital Improvement Program. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent – None

The next item of business was distribution of Dog and Cat Sterilization Funds received from the Department of Motor Vehicles. Council Member Lantz offered a motion to distribute the funds (\$750.00) between the SPCA and Cats Cradle. The motion was seconded by Council Member Chenault and approved with a unanimous vote of Council.

Vice-Mayor Eagle offered a motion to approve a request by Blue Ridge Chapter of the National MS Society to use certain City streets for an annual walk. The event will take place on Saturday, April 29, 2006. The motion was seconded by Council Member Pace and approved with a unanimous vote of Council.

City Attorney Thumma presented for Council's consideration amending and re-enacting Article J of Title 4, Chapter 2 of the Harrisonburg City Code. He explained that this ordinance

effective January 1, 2006 provides for the computation of personal property tax relief on qualifying vehicles as a specific dollar amount and the reporting of such specific dollar relief on the tax bill. Council Member Chenault offered a motion to approve this ordinance for a first reading. The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent – None

City School Business and Finance Director Jim Triplett presented a request for a supplemental appropriation for the School Board. He said that these funds were received from three construction companies, each paying a \$25,000 fee to review their PPEA proposals for the new elementary/middle school complex. No additional local dollars are required from the City. Vice-Mayor Eagle offered a motion to approve this request for a first reading, and that:

\$75,000.00 chge. to: 1311-31336 Public Private Ed. Facility Review Fee

\$75,000.00 approp. to: 1311-910114-48700 Construction-Elem/Middle School Complex

The motion was seconded by Council Member Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Pace  
Council Member Chenault  
Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

Absent – None

Council Member Lantz requested placing on a future agenda discussing whether the City to discontinue issuing decals for vehicles.

City Council agreed to meet with the School Board on November 29<sup>th</sup> in a joint meeting to discuss future items of concern.

At 10:46 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

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MAYOR