

## REGULAR MEETING

October 9, 2007

At a regular meeting of Council held this evening at 7:00 p.m., there were present: Mayor Rodney Eagle; City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor George W. Pace; Council Members Charles R. Chenault, Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, MMC; and Police Chief Harper.

Mayor Eagle gave the invocation and led everyone in the Pledge of Allegiance.

John Marr, a resident of the City, presented information regarding facts about the benefits of having trees in the downtown area, a proposal for possible sign exchanges, and a petition to stop the trees on Court Square in front of the building that houses Court Square Theater, Cally’s, and Downtown Wine and Gourmet from being relocated to Liberty Park. Comments received in collecting signatures include that the landscape adds to the overall charm of the downtown area, and removing these trees is a bad precedent to set for other business owners. He said that this decision was made before the Tree Advisory Board could come to a conclusion. Downtown trees are a beautiful addition to our urban landscape. These trees help improve our air quality, protect our water, extend the life of the paved surfaces with their shade, and increase traffic safety. Moving will kill the trees and is unconscionable. He asked that Council please reconsider their decision to move the trees and examine other options. He encouraged Council to partner with HDR and affected businesses to see if alternative signage is a viable option.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes, the second reading of a supplemental appropriation for the Police Department, and a request from Hi-Sky enterprises to close a portion of an alley between East Market Street and Ott Street. The motion also included a request from Diversified Development Solutions and Ferguson Investments to amend an approved plan of development for Brookside Park. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Vote: Yes – Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Council Member Frank  
Mayor Eagle

Absent – None

Senior Planner Adam Fletcher introduced a request from Bill Neff to rezone eight parcels totaling approximately 60 acres from R-7, Medium Density Mixed Residential Planned Community, to R-5, High Density Residential District Conditional. This request also included allowing more than twelve (12) units per building within the R-5, High Density Residential District. Mr. Fletcher said the rezoning and special use permit requests would be reviewed together. In 2006, the applicant requested to amend the Comprehensive Plan’s Land Use Guide

designation for the subject parcel from Commercial to Medium Mixed-Density Residential. Planning Commission recommended denying the amendment with a vote of 4-2. Simultaneously, the applicant requested to rezone the subject parcel from M-1 and B-2 to R-7. Staff did not support either of these applications due to the property's location between commercial development on South Main Street and the interstate, problems with the alignment of Boxwood Court and Pointe Drive, and a concern that with undeveloped R-3 land already available, the City did not need a rezoning of B-2 and M-1 land to provide additional low to moderate income multi-family housing. Planning Commission voted 3-3 to recommend approval of the rezoning and City Council unanimously approved both the Comprehensive Plan amendment and the rezoning request. In January 2007, the applicant submitted a revised plan for consideration due to problems acquiring land from the adjacent professional office and with traffic flow to E&M Paint's loading dock. The 2006 plan of development includes 466 units of townhouses and multi-family units. This is the only approved plan of development for this property. The approved plan had the offset intersection alignment of 40 feet from Pointe Drive to the proposed Boxwood Drive. Mr. Fletcher reviewed an earlier, unapproved, and withdrawn concept plan of development including comments from the Public Works Department. Planning commission recommended denial of that request 6-0, and City Council denied the application with a vote of 3-2. Again, Staff did not support the request.

Now the applicant is requesting to rezone the eight (8) parcels totaling approximately 60 acres of R-7, Medium Density Mixed Residential Planned Community District, to R-5, High Density Residential District Conditional. Mr. Fletcher reviewed the surrounding uses in the area. The applicant is proposing this change because the R-7 District does not allow this type of proposed development. The change would allow for condominiums and multi-family buildings that could house groups of four (4) unrelated people per units. Multi-tenant units are not permitted in the R-7 classification. The applicant has proffered the development shall be in substantial conformance with the Master Development Plan submitted with the application. The number of units has been proffered, which remains the same as that from the previously approved plan, totaling 466 units. He reviewed the architectural style of the buildings in the development. The plan of development also illustrates 2,011 parking spaces, which is 380 more than the required 1,631 parking spaces. The applicant has proffered the installation of a traffic signal at the intersection of South Main Street and Kaylor Park Drive, which also includes a traffic impact analysis. Mr. Fletcher reviewed streets and a roundabout in the development. Although not required by an R-5 zoning classification, the applicant has proffered approximately 20 acres of open space to include recreational fields, a 5-foot walking trail, a clubhouse, and a swimming pool. Phasing is planned to occur in three stages beginning at the entrance at East Kaylor Park Drive. Mr. Fletcher pointed out that the narrative statement was not part of the proffers. Staff has been unconvinced about this project since its first submission in 2006. Staff did not support the Comprehensive Plan amendments or the rezoning applications; yet, we recognized that a residential development in this area of the City is desired since the applicant has an approved R-7 plan of development. A property of this size within an R-5 zoning district could allow as many as 1,461 total units. The applicant however, proffered to develop only 32% (466 units) of the maximum allowable density. Nevertheless, Staff continues to believe this is an inappropriate use of the property. The Comprehensive Plan specifically points out an objective to increase the percentage of single family detached housing units in the City. One of the strategies to achieve this was to approve new high density multi-family developments for only

select areas of the City as designated in the Land Use Guide. This property is not one of those locations. The City has over 1,000 multi-family units already in review or approved that are by-right uses. The City may soon be overburdened with this housing type, which could lead to under occupancy of existing complexes, making them harder to maintain. Mr. Fletcher said that Planning Commission has recommended approving both requests by a 5-2 vote.

At 7:30 p.m., Mayor Eagle 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, September 24, and Monday, October 1, 2007.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a public hearing on Tuesday, October 9, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

#### ***Rezoning – Southbury Station R-5 District***

**Public hearing to consider a request from Bill Neff, with representative Valley Engineering – Surveying – Planning to rezone 8 parcels totaling 60.40 +/- acres from R-7, Medium Density Mixed Residential Planned Community to R-5C, High Density Residential District Conditional. The properties are located near South Main Street between Boxwood Court and East Kaylor Park Drive and can be found on tax maps 2-C-1, 2-D-0, 6-10, and a portion of 103-A-5.**

**The Comprehensive Plan designates this area as Medium-Density Mixed Residential. This designation is intended for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. The gross density of development in these areas should be in the range of 4-12 dwelling units per acre.**

**The Zoning Ordinance states that the R-7, Medium Density Mixed Residential Planned Community is intended to permit the development of planned residential communities offering a mix of single family detached and attached dwellings and open spaces. Innovative residential building types and creative subdivision design solutions are encouraged to promote neighborhood cohesiveness, walkability, connected transportation systems, community green spaces and protection of environmental resources. Communities shall be developed, redeveloped, and amended in accordance with a master development plan. The R-5, High Density Residential District is intended for medium to high-density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses.**

**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 hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG**  
**Kurt D. Hodgen**  
**City Manager**

Mayor Eagle called on anyone desiring to speak for or against rezoning these parcels.

Meredith Ward, Director of Planning with Valley Engineering-Surveying Planning, said the original concept for Southbury Station was approved by the City in March of 2006. The Comprehensive Plan was amended to designate these parcels, which comprise this development, for residential use. The current master plan development was approved at that time and rezoned to R-7. Since that rezoning took place in the spring of 2006, several things have happened. The developer at that time faced challenges with the construction and the acquisition of the right-of-way needed to access the northern portion of the site. In an effort to resolve these issues, a revision was requested to relocate that northern entrance by means of Boxwood Court. Upon consideration of the modified plan, City Council denied the change with hopes that the developer would discover a better means for access to the development. Another critical change that took place since March 2006 was the arrival of another potential developer for Southbury Station. The plan you see before you tonight is a product of his vision for Southbury Station. While they no longer meet the 70% single family requirement, they now show a development consisting of 144 multi family units, which is consistent with their approved master plan. They show 322 condominium residences, which would take place of the single family residences approved in March 2006. Earlier this year, the City adopted the R-5 zoning district that does permit this type of development that we are proposing. All these past events have contributed to why they are here tonight. They have taken the City's advice to continue to explore options to 1) construct site access in such a way as to minimize the number of stoplights on South Main Street; 2) potentially lessen the impact on the school system by eliminating the requirement for single family housing and; 3) provide the City with an innovative and functional plan for the development of this land. She reviewed the traffic concerns and proffers and noted that the entire project will be built in three phases over a four-year period.

Daniel Michael with Valley Engineering said Mr. Fletcher did a great job on the presentation. He also stated that even though they are here asking for a change from medium density to high density, they are not asking for more units. They are asking to take a concept that has already been approved and put it under a new name so that they can make a couple of changes. They are asking to change the proposed recreation facilities from what was approved on the master plan in order to add a clubhouse, pool, more green space, and another recreation field. They wish to develop a project that will allow unrelated persons to share housing costs. This development will also help with the revitalization of South Main Street.

Seth Roderick, Traffic Engineer with Valley Engineering, reviewed the primary concern with the earlier two renditions of this project from a traffic standpoint around the alignment of Pointe Drive and Boxwood Court.

Don Koons said he supported the request and hopefully this development will attract stores that have the ability to draw customers into this area.

John Liskey spoke in favor of the request. Hopefully this plan can attract growth into the Southern corridor of the City.

Giles Stone said he supported the previous speakers because he has been looking at brush for 36 years in this area.

Jerry George asked Council to approve this request for business purposes because the South Main area dies after 6:00 p.m.

Bill Neff said the Southbury Station Development plan has been approved using the exit on the north property line. He reviewed the requests that had been presented in the past. He asked Council to approve this proposal. There being no others desiring to be heard, the public hearing was declared closed at 8:04 p.m., and the regular session reconvened.

Council Member Carolyn Frank said, "I am concerned that City staff has not supported these requests. This is not smart growth nor are we protecting our valley & City. I believe citizens are concerned about the speed in which the City is growing. I cannot support these requests."

Mayor Rodney Eagle said, "There are concerns about growth, but there are opportunities for commercial and retail development in this area. There are 1000 by-right approved units which might create 2000 new jobs. Six public hearings have been held regarding these requests. There is a need for these projects, and I am supporting them."

Vice-Mayor George Pace said, "It is clear increased residential development in this area of the City would help the South Main Street commercial corridor. We have received letters from people and business owners supporting this rezoning proposal. From a community and business prospective this project will help address a key issue in sustaining this community economic growth. It will provide affordable housing. The community's unemployment rate is currently below 3%. Both now and in the future, continuing the economic growth that has occurred in this community will depend upon businesses either hiring high school or college graduates or recruiting people from other areas of the country. I continue to support this proposal.

Council Member Charles Chenault said, "I respect the opinions of the merchants of South Main Street. One of the reasons I supported originally the R-7 rezoning was because I thought it was a sound roof top business decision for the South end of the City. However, in my mind I don't see anything that has changed that decision. I have tried to give this request a fair evaluation. But, I cannot overcome my original evaluation...the R-7 designation continues to be appropriate. My issue is with unit unrelated population density, and R-5 allows for unrelated. The stated market target of this development is professional cost sharing to accommodate future workers in community. In my view, this population is served already by development already in review or approved by-right uses and continual residential development in the downtown area. There is absolutely no reason why it cannot be served with this R-7 zoning designation. We need more single family housing in the City. I am not convinced that I have been provided a reason to change my R-7 support, and I will vote no on this application."

Council Member Ted Byrd said, "My objection originally was on the northern entrance with the stoplight situation on the plan of development. Since that concern has been addressed, the previous Council changed the comprehensive land use designation for this land to R-7 and rezoned this property to R-7 with residential. The R-5 designation is a good idea for the school age population. This R-5 designation enacted as a Council was requested by Planning Commission to down zone R-3 and substitute R-5. I can support this request as presented."

Vice-Mayor Pace offered a motion to approve this rezoning request as presented. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes – Vice-Mayor Pace  
Council Member Byrd  
Mayor Eagle

No - Council Member Chenault  
Council Member Frank

Absent – None

At 8:21 p.m., Mayor Eagle closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, September 24, and Monday, October 1, 2007.

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

**The Harrisonburg City Council will hold a public hearing on Tuesday, October 9, 2007 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

*Special Use Permit – Southbury Station R-5 (10-3-55.4 (1))*

**Public hearing to consider a request from Bill Neff, with representative Valley Engineering – Surveying – Planning for a special use permit per Section 10-3-55.4 (1) of the Zoning Ordinance to allow multiple family dwellings to have more than twelve (12) units per building within the R-5, High Density Residential District. The properties are located near South Main Street between Boxwood Court and East Kaylor Park Drive and can be found on tax maps 2-C-1, 2-D-0, 6-10, and a portion of 103-A-5.**

**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 hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.**

**CITY OF HARRISONBURG  
Kurt D. Hodgen  
City Manager**

Mayor Eagle called on anyone desiring to speak for or against the special use permit. There being no one desiring to be heard, the public hearing was declared closed at 8:22 p.m., and the regular session reconvened. Council Member Byrd offered a motion for approval to allow

multiple family dwellings to have more than twelve (12) units per building within the R-5 High Density Residential District. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

Vote: Yes – Vice-Mayor Pace  
Council Member Byrd  
Mayor Eagle

No - Council Member Chenault  
Council Member Frank

Absent – None

The next item of business was an update on the Harrisonburg Electric Commission (HEC) 69kV Transmission Line Project. Mike York, General Manager of HEC, gave an update on the progress of the 69kV project and the construction of the substation serving the Criticon Data Center. He reviewed Criticon’s projected loads, HEC’s substations, and future build out. Because of Criticon loads, it will be necessary for it to have its own substation. It is not feasible to provide a load of that magnitude over a distribution facility. The project will cost HEC \$225,000 and will take six weeks.

Parks and Recreation Director Lee Foerster presented a request for a supplemental appropriation for the Parks and Recreation Department. He said these funds will be transferred from the skate park reserve funds and be used in the “Dream Come True” playground project. Council Member Byrd offered a motion to approve this request for a first reading, and that:

\$31,700.00 chge. to: 1000-31010 Amount from Fund Balance  
(Reserve for Skateboard Park)  
31,700.00 chge. to: 1310-34210 Transfer from General Fund

\$31,700.00 approp. to: 1000-990111-49216 Transfer to Capital projects  
31,700.00 approp. to: 1310-910141-48699 Peach Grove Park (A Dream Come True)

The motion was seconded by Vice-Mayor Pace, and approved with a recorded roll call vote taken as follows:

Vote: Yes – Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Council Member Frank  
Mayor Eagle

Absent – None

The next item of business was a request to consider revocation of College Limousine Service’s “Certificate of Public Convenience and Necessity.” City Attorney Thumma said that a

“Certificate of Public Convenience and Necessity” was issued to College Limousine Service to operate a limousine/van service in June 2006. College Limousine Service is no longer in compliance with existing City ordinances, and its DMV Taxi Cab passenger permit has expired. Mr. Solomon was contacted by Transportation Director Reggie Smith in April 2007 to bring his vehicle into the department for inspection. Mr. Solomon has not complied with the request and has indicated that he is no longer in the taxi business. Following further discussion and comments, Vice-Mayor Pace offered a motion to revoke the “Certificate of Public Convenience and Necessity” issued to College Limousine Service. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

Vote: Yes – Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Council Member Frank  
Mayor Eagle

Absent – None

Lisa Ha, Harrisonburg Parking Services Coordinator, reviewed updates on downtown parking issues. She reported that a new parking device that has the capability to read license plates and print out photos of possible violations has achieved the goals established in switching to this device. She reviewed a current problem in the downtown area which consists of a few owners and employees using the short term parking spaces when there are open free 10-hour spaces available. These people are constantly moving their vehicles around to different parking spaces in the same lot. This is not legal and is violating the spirit of the law. It is estimated that each on street parking space is worth \$10,000 a year in retail sales to downtown businesses. The space-hopping by employees who do have other long term parking options hurts businesses, and it is the recommendation of the parking advisory committee and downtown parking staff that this ordinance be changed and the language that prevented the space-hopping be put back into the ordinance. She also reviewed adding new on-street parking spaces to Noll Drive, Rock Street, and Federal Street.

City Manager Hodgen presented for Council’s consideration a report on Fire Department salaries. He reviewed an outline regarding the financial impact of an across-the-board increase of \$2,500.00 for all fire department personnel. The overall impact of the increase would be about \$242,000.00. Information was also included on the changes to the salary schedule and comparison information of other firefighter salaries in comparable localities. Following further discussion and comments, Council Member Chenault offered a motion to adopt an across-the-board pay increase of \$2,500.00 for all fire department personnel as proposed by the City Manager, effective January 1, 2008. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

Vote: Yes – Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Council Member Frank

Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. He said these funds were received through a DMV Grant for the “Click It or Ticket” program. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$99.90 chge. to: 1000-33524 DVM (Federal) grant

\$99.90 approp. to: 1000-310631-45530 Training and travel

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

Vote: Yes – Council Member Chenault  
Vice-Mayor Pace  
Council Member Byrd  
Council Member Frank  
Mayor Eagle

Absent – None

The next item of business was a presentation by Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance (HDR), who gave an update on the progress and accomplishments of HDR. An article appearing in the Virginia Main Street Monitor mentioned the 2006 downtown growth in Harrisonburg. He thanked City Council and City Administration for their continued support of downtown renovation. Walking tours are again being held during the fall. He reviewed several new businesses that have located to the downtown area. Applications are being reviewed for the façade enhancement grants. Progress continues to be made with fundraising efforts for the Farmers Market Pavilion. He introduced Kris Ludwig, the new Special Events Manager.

Alexis Morehouse, HDR’s Promotions Manager, reviewed the successful events held during the summer. Many successful events were held during the summer including Valley 4<sup>th</sup>, Cruise In, “Block Party in the Burg”, and Fridays on the Square. Additional marketing programs have been started, and hopefully the first campaign will be launched in time for the holidays. Also, seminar programs have been started, for the downtown merchants, giving them access to educational features.

Council Member Chenault said there is an opportunity to try and save the trees in front of Cally’s, Downtown Wine and Gourmet, and Court Square Theater facility and at the same time accommodate the signage needs of those businesses. He proposed tabling a motion made at the September 25<sup>th</sup> Council meeting regarding the tree situation. This should allow a group consisting City Manager Kurt Hodgen, Director of Community Development and Planning Stacy

Turner, Harrisonburg Downtown Renaissance Director Eddie Bumbaugh, Council Member Chenault, and the three representatives located in the building to evaluate the situation and provide a report at the October 9<sup>th</sup> meeting.

Council Member Chenault offered a motion to postpone the action taken at the September 25<sup>th</sup> meeting and proceed in the manner just mentioned, with results of the investigation. The motion was seconded by Vice-Mayor Pace and approved with a unanimous vote of Council.

Mayor Eagle reminded everyone of the upcoming November 11<sup>th</sup> Veterans Day Parade.

At 9:30 p.m., there being no further business and on motion adopted, the meeting was adjourned.

---

CITY CLERK

---

MAYOR