

MINUTES OF HARRISONBURG PLANNING COMMISSION
NOVEMBER 12, 2014

The Harrisonburg Planning Commission held its regular meeting on Wednesday, November 12, 2014 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, MuAwia Da'Mes, Judith Dilts, and Deb Fitzgerald.

Members absent: Jefferson Heatwole and Henry Way.

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; Alison Banks, Senior Planner and Secretary.

Chair Fitzgerald called the meeting to order and determined there was a quorum with five of seven members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the October 8, 2014 Planning Commission meeting.

Mr. Colman moved to approve the minutes as presented from the October 8, 2014 regular Planning Commission meeting.

Mr. Da'Mes seconded the motion.

All members voted in favor of approving the October 2014 minutes (5-0).

New Business

Rezoning – Freeman Station Proffer Amendment (2014)

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Medium Density Residential. This designation states that these areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these areas may range from 1 to 15 units per acre.

The following land uses are located on and adjacent to the property:

- Site:** Single-family dwelling, duplexes, and apartment buildings, zoned R-3C
- North:** Across the Norfolk Southern Railroad and South High Street, dwelling units, zoned R-2, and commercial uses, zoned B-2
- East:** Eck Enterprises, zoned M-1 and single-family dwellings fronting along Sharon Street and Amherst Court, zoned R-2
- South:** Single-family dwellings fronting Amherst Court, zoned R-2 and apartment units fronting Colonial Drive, zoned R-3
- West:** Apartment units, zoned R-3 and industrial use, zoned M-1

The applicant is requesting to rezone 15 parcels by amending the proffers on R-3C, Multiple Dwelling Residential District Conditionally zoned property. The properties are situated within the Freeman Station Subdivision which is located along the cul-de-sac of Pear Street and Howard Lane, a private street. The subdivision consists of a mix of apartment units, duplexes, and a single-family dwelling.

Freeman Station, which was originally known as Cosner Development, was rezoned from R-2, Residential District and R-3, Multiple Dwelling Residential District in July 2008 by rezoning all property to R-3C. The proffers associated with the rezoning included:

1. The concept plan prepared by Hamrick Engineering, P.C. dated June 10, 2008 is proffered except for the location of street trees which may vary due to necessary sight distance easements.
2. Occupancy will be limited to two unrelated people or a single-family.
3. Each duplex unit will have three parking spaces. One in the garage and two in the driveway.

Along with the above, the proffered concept plan included eight general notes and because the concept plan was proffered, the general notes are also conditions of the development. They are as follows:

1. Stormwater management will be provided meeting all applicable City and State requirements.
2. Each duplex unit will have a single stall garage and two parking spaces in the driveway.
3. The privacy fence at the rear of lots 1 through 3 along the railroad and adjacent to the basketball court shall be constructed of wood or vinyl.
4. Utility easements will be granted to all public utilities as necessary.
5. The typical street section shall comply with City standards. The horizontal geometry shall be as shown.
6. The tot lot amenities shall be 2-springer animals, 1-junior swing, and 1-sand box.
7. The existing single-family dwelling may in the future be demolished and replaced with a duplex building.
8. Right-of-way and temporary construction easement will be dedicated in the future as shown if the existing railroad crossing is abandoned.

Concurrent with the planning, rezoning, and preliminary platting of Cosner Development, the City was beginning the first phase of the Erickson Avenue/Stone Spring Road improvements. This phase included rerouting traffic from the intersection of Pear Street and Erickson Avenue so that the railroad trestle could be removed and the new roadway completed. Traffic was routed along Pear Street past Cosner Development and the proposed Pear Street extension. During the planning and rezoning stage, the developer worked closely with the City regarding traffic concerns entering and exiting the property. The developer was able to begin site grading and install infrastructure for the proposed development while the City completed phase one of the Erickson Avenue/Stone Spring Road project. Upon removal of the trestle and completion of the road improvements, the developer final platted the subdivision and renamed it Freeman Station.

Construction of the apartment units and several duplexes began in early spring of 2014. It was during this time that several concerns and questions arose regarding proffers and the concept plan general notes. One of those issues was the proffer stating that each duplex unit would have three parking spaces, one in the garage and two in the driveway, was not provided for on the duplex dwelling that was planned to front along Howard Lane. Another issue revolved around converting the existing single-family dwelling into to a duplex, where the concept plan specified the dwelling could only be demolished and a duplex constructed in its place.

After several conversations with the developer and applicants, it was decided that an amendment to the proffers would be the best course of action to take in order to complete the subdivision as planned. The applicants have amended the proffers with the following:

1. The concept prepared by Hamrick Engineering, P.C. dated October 7, 2014 is proffered except for the location of street trees which may vary due to necessary sight distance easements.
2. Occupancy will be limited to two unrelated people or a single-family.

3. Tax map parcel numbers 9-T-4 through 9-T-15 will have three off-street parking spaces.

The sight distance easement has been recorded and several of the street trees have been removed from the plan of development, or relocated, to accommodate the easement. Proffer three regarding off-street parking and garages for all duplexes was amended removing the requirement of a garage and specifying that only three off-street parking spaces for the duplex units along Pear Street would be provided; which clarifies that this detail was never intended for the duplex off of Howard Lane.

The concept plan general notes were amended to allow the single-family dwelling to either be converted to a duplex or demolished to allow construction of a new duplex. In addition, the amended third proffer also clarifies that if the single-family home becomes a duplex, whether converted or reconstructed, it would have to meet the same three off-street parking space requirements. The specific amenities of the tot lot were removed too, indicating that just a tot lot area would be provided.

The requested changes are in keeping with the intentions of original rezoning and the Freeman Station Subdivision, and staff appreciates the cooperation of all the applicants involved. Staff recommends approval of the rezoning request.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman asked if the single-family home is converted to a duplex are they required to have garages.

Mrs. Banks replied no; actually, with this amendment, none of the units are required to have garages. The six duplex units fronting along Pear Street are required to have three off street parking spaces. If the single-family home is converted or demolished and rebuilt as a duplex, it must provide three off street parking spaces per unit as well.

Mr. Colman asked if there was space to put three off street parking spaces on that parcel.

Mrs. Banks said yes.

Chair Fitzgerald asked if there was any recollection of the original reasoning for the single-family home being used as a single-family home or demolished.

Mrs. Banks said she does not recall a reason why the general note was added as such.

Mr. Baugh said I was on Planning Commission at the time of the original rezoning and if I recall correctly, it had something to do with density.

Mr. Fletcher said the idea really came from the applicant, who is here with us tonight and could probably speak more to the idea of the house remaining or being demolished.

Mr. Colman said the house is actually fronting South High Street.

Mr. Fletcher replied yes it does.

Mr. Colman said in terms of an accessory shed of something like that, what could be done?

Mr. Fletcher said we can view it as a through lot and allow a structure in the established rear yard; however, we will worry about that when the owners decide they are ready to put in an accessory structure.

Mrs. Banks said it is addressed off of Pear Street now, so I believe the intent is to reconfigure the house with a Pear Street entrance.

Chair Fitzgerald asked if there were any further questions. Hearing none, she opened the public hearing and asked the applicant or the applicant's representative if they would like to speak.

Randy Cosner, Broadway, VA, said he is the developer of the project and still owns several of the lots. I believe staff did a wonderful job in explaining what we are trying to do with the amendments; but, I will be happy to answer any questions you may have for me.

Mr. Da'Mes asked what is the square footage of the duplex units and why the three parking spaces.

Mr. Cosner said the units are right at 1,400 square feet and the parking is to make certain there is adequate parking space for occupants and visitors within the driveway.

Mr. Fletcher said it is also associated with the fact that there is no on street parking within this subdivision.

Mr. Cosner said that is correct.

Mr. Colman said all the parking for the duplex units is within the actual lot, not on the street.

Mrs. Banks replied yes.

Chair Fitzgerald asked if there were sidewalks.

Mrs. Banks said on one side, which was the requirement at the time of platting.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked if there was a motion.

Dr. Dilts made a motion to recommend approval of the rezoning for Freeman Station Proffer Amendment 2014, with the three proffers and the eight general notes on the concept plan.

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor (5-0).

Chair Fitzgerald said the request passes unanimously and will go to City Council on December 9th.

Zoning Ordinance Amendment – Section 10-3-84 (4) To Add Recreational and Leisure Time Activities Uses in B-1

Chair Fitzgerald read the agenda item and asked staff to review.

Mr. Fletcher said staff is proposing to amend the Zoning Ordinance (ZO) Section 10-3-84 Uses Permitted By-Right of the B-1, Central Business District. Specifically, the amendment includes adding a statement to subsection (4) to clarify that property owners may operate recreational and leisure time activities uses as a by-right use so long as they are compatible with surrounding uses.

Currently, Section 10-3-84 (4) lists several uses as permitted by-right by stating: "Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education." The proposed amendment would add the following sentence to the stated section: "In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted." If approved, Section 10-3-84 (4) would match the existing language and uses permitted within the B-2, General Business District Section 10-3-90 (4).

The above described amendment was put forth due to a recent staff discussion regarding recreational and leisure-time activities uses when we realized it is not clearly specified that such uses are allowed in B-1 even though we have allowed them for many years. In fact, since 1939, when zoning regulations were first adopted in the City, some form of recreational, leisure time, or amusement uses (i.e. bowling alleys, fitness facilities, billiard halls, yoga studios, etc.) have been permitted downtown, where the permitted uses were stated differently over time.

In the 1939 and 1952 ZO, the B-1 district allowed “billiard and pool tables and bowling alleys; public dance halls, shooting galleries, and similar forms of public amusements.” In the 1958 ZO the permission was stated slightly differently allowing “billiard and pool rooms, bowling alleys and similar forms of commercial recreation.” In 1963, the ZO stated “theatres, amusement or recreation facility” was permitted; while in 1969 and 1976, the uses were more narrowly specified stating “theatres, indoor amusement and recreation facilities” were permitted (emphasis added). Also in the 1969 and 1976 ZO, the B-2 district allowed “commercial amusement or recreation facilities, including outdoor establishments as drive-in theatres and commercial golf ranges (emphasis added). From 1978 through 1984 the downtown allowed “theatres, leisure time or recreation facilities;” and then finally, in 1987, the ZO utilized the same language that exists today for both the B-1 and B-2 districts. Not until 2004 was recreational and leisure time uses added to the ZO as a special use permit (SUP) within the M-1 district when an individual wanted to operate a paintball facility in that zoning district.

In knowing this history, one could argue businesses like bowling alleys and fitness centers are allowed through the existing listed uses, however, since other sections of the ZO make use of the “recreational and leisure-time activities” terminology, and uses such as fitness facilities have been required to obtain a recreational and leisure-time activities SUP in the M-1 district to operate, staff believed it would be good practice to make the proposed amendment to clarify that such uses are permitted by-right.

The most important component of the proposed amendment is to include the phrase “...which are compatible with surrounding uses...” Having this provision will provide an administrative level of scrutiny for the Zoning Administrator to ensure that such uses do not cause a great deal of undesirable noise, lighting, or other unwelcomed utilization of the City’s downtown. If the Zoning Administrator interprets a particular recreational and leisure-time activity as not being compatible with the surrounding uses, and the property owner believes the interpretation is wrong, they may appeal the decision to the Board of Zoning Appeals.

Staff recommends approving the proposed amendment to Section 10-3-84 (4).

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the amendment. Hearing none, she asked if there was anyone wishing to speak in opposition of the amendment. Hearing none, she closed the public hearing and asked for questions, comments, or a motion on the amendment.

Mr. Colman said I have a question regarding compatible surrounding uses; how many times have you had people come in with a use that is not compatible?

Mr. Fletcher replied not often. We do not have many of these types of uses that are really questionable. We have very few outdoor recreational facilities; actually, I do not think we have any outdoor recreational facilities in the B-2 district.

Mr. Colman said there may be new trends that come forward; but, this is written such that staff would have the opportunity to evaluate whether the use is compatible or not.

Mr. Fletcher said that is correct. The way this is written gives staff the opportunity to look at the existing surrounding uses and question whether it is compatible in that location.

Mr. Da'Mes moved to recommend approval of the ordinance amendment to Section 10-3-84.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor (5-0) of recommending approval of the ordinance amendment.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mr. Baugh said at City Council last night the only matter we took up from this board was the special use permit request for the brewery at 120 West Wolfe Street. Council tabled that request. There was an adjoining property owner who spoke in opposition regarding the parking situation for the food court, also on the brewery parcel. The applicant had already discussed other options he had regarding parking for the uses at the site, so Mr. Chenault moved to table the request in hopes that the applicant may commit to a bit more parking. That could resolve the adjoining property owners concerns. Mr. Degner raised an objection as to whether it is fundamentally fair for these so called low capital investment food and drink establishments to be in competition with the high capital investment food and drink establishments. Hopefully, it will all get worked out, but it has been tabled for now.

Also, the alley closing along Massanutten Street and North Liberty Street continues to be tabled at the applicant's request.

Other Matters

Mr. Colman said we have not been sending a member to the Rockingham County Planning Commission meetings; I feel we need to reinstate that.

All members agreed and staff confirmed they would email a schedule out for everyone to sign-up.

Mr. Fletcher said next month we have a special use permit request for an art studio. This is the relocation of the You Made It Art Studio, which is currently downtown, to the owner's residence at 57 Paul Street.

Adjournment

Planning Commission adjourned at 7:30 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks