

MINUTES OF HARRISONBURG PLANNING COMMISSION

July 8, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, July 8, 2015 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Gil Colman, MuAwia Da'Mes, Judith Dilts, Deb Fitzgerald, Jefferson Heatwole and Henry Way.

Members absent: Richard Baugh.

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

Chair Fitzgerald called the meeting to order and determined there was a quorum with six members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the June 10, 2015 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as presented.

Dr. Dilts seconded the motion.

All members voted in favor of approving the June 2015 minutes as presented (6-0).

New Business

Special Use Permit – 210 Charles Street (Section 10-3-97(2) Convenience Store in M-1)

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

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

Site: Mercantile building, zoned M-1

North: Vacant parcel and tire business, zoned M-1

East: Church, zoned M-1

South: Across Charles Street, vehicle repair business, zoned M-1

West: Mercantile building and farm supply business, zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97(2) to allow a convenience store in the M-1, General Industrial District. The property is situated on the northern side of Charles Street, near the intersection of Charles and Jefferson Streets, and is adjoined on all sides by industrial zoned property. If approved, El Chaparro would continue to utilize a portion of the building on site as a convenience store.

City staff became aware of the convenience store at this location last fall when the adjacent property to the east received a special use permit to operate as a church. Staff informed the property owner by certified mail that a store, such as El Chaparro, was not a use permitted by right in the industrial district and the violation would need to be resolved. After conversations with the owner, it was decided they would apply for the SUP to allow the convenience store. If approved, they could

continue to operate as they currently are; as well, the store could apply for building permits for some improvements. If the SUP is denied, the store would be required to close and relocate to a site where it is permitted.

The applicant has been informed by staff that if they receive approval of the request, they would need to apply for a change of use permit from the Building Inspection Division. This would require that all Building Code regulations be met for the proposed use. If improvements are proposed to the store the applicant can include the improvements as part of the building change of use permit; it would not require a separate building permit. Staff has suggested to the applicant that they contact Community Development regarding questions, plans, and the application process.

Parking for the store would be calculated at one parking space for every 200 square feet of gross floor area. Per the applicant the store utilizes approximately 3,300 square feet which would require 17 parking spaces; all of which must be appropriately delineated. Currently, there are five on-site parking spaces available in front of the store which back out directly into Charles Street. There is available property in the rear of the site to create a new parking lot for the remainder of the required parking, or the possibility of a shared parking agreement between the subject parcel and the adjacent business to the west. Any construction of new parking must meet all the requirements of Article G, Off Street Parking. All parking plans would need to be finalized before issuance of any building/change of use permit.

With regard to the existing five on-site parking spaces that back out onto Charles Street, staff has discussed with the applicant that this creates an unsafe maneuver and that the applicant would be responsible for any issues that arise from the use of this parking area. Because of the unsafe maneuver, the Public Works Department has requested the applicant be required to remove the parking from the front of this portion of the building. After consulting with the City Attorney, staff recommends the following condition:

- any off-street parking spaces (existing or future spaces) on the subject property shall comply with Section 10-3-25 (5).

The uses along Charles Street are a mix of retail, non-conforming dwellings, warehousing, automotive repair, and moderate to minor industrial uses. Staff believes a convenience store at this location would be compatible with the existing uses. Staff recommends approving the request with the above condition.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way asked if the applicants could meet the requirements of Section 10-3-25 (5) if they were to install diagonal parking along the front of the building.

Mrs. Banks explained that would be something staff could look at. We would need to determine exactly where the property line is along the front of the property and make certain that a vehicle does not have to maneuver into the right-of-way while backing from a diagonal parking stall. The intent of 10-3-25 (5) is to not use any portion of the right-of-way for maneuvering the vehicle. There may be the possibility of placing some parallel parking spaces in the front.

Mr. Way said the nature of a convenience store is to come in and out of the store quickly, so if diagonal parking could be used it may work better.

Mrs. Banks said there is one other thing I wanted to add about the parking and Section 10-3-25 (5). If the special use permit is approved with the suggested condition, and the convenience store

receives their permits and stays at this specific location for more than 24 consecutive months, the owner loses the ability to put the parking back in front of the building as it exists today. It is considered non-conforming and it cannot be re-established after more than two years.

Mr. Heatwole said the condition just applies to this property?

Mrs. Banks replied yes, only the convenience store property.

Chair Fitzgerald said thus, there can still be ninety degree parking straight in front of the church that we have no say over.

Mrs. Banks said yes.

Mr. Colman said they have the right to use those spaces?

Mrs. Banks said if they choose to use those spaces we would be looking for some type of shared agreement.

Mr. Way asked exactly how many spaces are in front of the convenience store.

Mrs. Banks said four or five; we do not know precisely where the property line is.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the request.

Heidi Thomas, Mount Crawford, said she is speaking on behalf of the convenience store, El Chaparro. We are willing to fix and comply with whatever is needed for the parking in order to ensure the safety of customers. We feel that the convenience store adds to the culture of the area and desire to stay there.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the SUP request. Hearing none, she closed the public hearing and asked if there were any further questions or perhaps discussion on the request.

Dr. Dilts moved to recommend approval of the SUP with the condition as presented.

Mr. Colman seconded the motion.

All voted in favor of the motion (6-0).

Chair Fitzgerald said this will move forward to City Council on August 11th with a favorable recommendation.

Special Use Permit – 521 Blue Ridge Drive (Section 10-3-34(6) Major Family Day Home in R-1)

Chair Fitzgerald read the request and asked staff for review.

Mrs. Banks said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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

Site: Single family dwelling, zoned R-1

North: Single family dwelling, zoned R-1

East: Single family dwelling, zoned R-1

South: Across Country Club Road, non-conforming Southeastern trucking company, zoned R-1

West: Across Blue Ridge Drive, single family dwelling, zoned R-1

The applicants are requesting a special use permit (SUP) per Section 10-3-34(6) of the Zoning Ordinance to allow a major family day home within the R-1, Single Family Residential District. Major family day homes (MFDH) are currently defined in the zoning ordinance as: *A child day care program offered in the residence of the provider or the home of any of the children in care for six (6) through twelve (12) children under the age of thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation.* (Note: On the same agenda as this request, there is an amendment proposed to modify the definition of MFDHs. That amendment does not impact this request.)

The Virginia Department of Social Services (VDSS) regulates licensing standards of family day homes and ensures that the facility and the operation of the MFDH are favorable to the welfare of the children in care. Approval and licensing from the VDSS does not, however, exempt an applicant from maintaining compliance with local ordinances and laws. Approval of the SUP would allow for the applicants to operate as a major family day home, with the proper licensing from the VDSS.

In May 2009, the applicants received approval for the same SUP at the subject property on Blue Ridge Drive. At the time, the applicants were operating a minor family day home with the intent to expand to a MFDH, and then possibly to relocate the business to a child day care center, which is a use that cannot be in the residence of the provider or any of the children in care. In May 2010, the applicants opened A Smiley Day Care Center at a commercial location and discontinued the MFDH use at their home. As with any SUP, per Section 10-3-130, if the use or activity should cease for any reason for a continuous period of two years or more, the permit shall become null and void and the approval of a new SUP shall be required prior to any subsequent reinstatement of the use. The 2009 SUP became void in May 2012. At this time the applicants desire to re-establish the use of their home as a MFDH.

During the review for the 2009 MFDH permit, staff made it clear that we believed a major family day home should not operate from this location. The property is located on the northeastern corner of a skewed and very busy intersection at Blue Ridge Drive and Country Club Road. Vehicles traveling on Country Club Road cannot make use of “right-on-red” and the traffic signal is split-phased so that cars waiting on either side of Blue Ridge Drive do not simultaneously utilize the intersection. Additionally, Country Club Road intersects another road, Clay Street, approximately 150 feet to the east of the Blue Ridge Drive intersection. There is also a transit bus stop situated at the junction of Country Club Road and Clay Street. This makes for an awkward scenario for traffic attempting to enter or exit the property at 521 Blue Ridge Drive.

The property has a driveway with entrances on both Blue Ridge Drive and Country Club Road. As was scrutinized during the 2009 SUP review, entering and exiting the property is difficult as anyone traveling to or from the subject property must maneuver through the controlled intersection to or from the property’s driveway entrances that are approximately 20 and 50 feet from the intersection. The two entrances allow vehicles to enter and/or exit from either road. As just discussed, entering the property is challenging, but exiting the property is even more difficult. Vehicles waiting to exit

the property onto Country Club Road have no visual reference for any of the traffic signals; and therefore, must rely on the flow of traffic to figure out who has the green light. Vehicles waiting to exit onto southbound Blue Ridge Drive can see the traffic signal that controls traffic and can turn right onto that street when it is safe. Unfortunately, it is difficult to see if vehicles traveling west on Country Club Road are turning right onto Blue Ridge Drive or if they are driving straight through the intersection. If the person exiting the property wants to travel west onto Country Club Road, they must await their turn and travel with Blue Ridge Drive traffic, however they must move diagonally across the intersection to perform this task. Vehicles exiting the property to travel east on Country Club Road have to await their turn and travel with Blue Ridge Drive traffic patterns.

Staff recommended denial of the 2009 SUP request believing that any use increasing traffic at this unsafe intersection was not in the best interest of the City. However, it was ultimately recommended for approval by Planning Commission (5-2) and unanimously approved by City Council (4-0, with one member absent), with the following conditions:

1. The “major family day home” shall be valid only for the current applicants.
2. Vehicles shall not be permitted to exit the property onto Country Club Road. All vehicles shall exit onto Blue Ridge Drive.
3. All existing shrubbery/plantings within the island created by the connecting portions of the driveway, near the southwestern property corner, shall be trimmed or removed to improve sight distance. All plantings within this area shall be low-lying and/or ground covering vegetation.
4. The connecting portions of the driveway shall remain open at all times to allow parents/guardians to maneuver on and off of the property without utilizing the public right-of-way. Therefore, parking is prohibited on these portions of the driveway.
5. If City Council finds traffic conditions warrant re-evaluation of the “major family day home,” they may require the applicant to return to Planning Commission to re-examine the use of the property. It shall be at the discretion of Planning Commission and/or City Council to determine if the re-evaluation shall necessitate a public hearing. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.

During the public hearing for the 2009 SUP multiple different scenarios were discussed to try and improve the situation, such as: traffic signals for the driveway entrance, the angle of the traffic signal head, and relocating the existing driveway entrances. The City does allow traffic signals for private residences; it was not recommended to angle the traffic signal head; and the shifting of the entrances did not resolve the actual concern of vehicles entering and exiting the property. Ultimately, the City did change out the traffic signal heads from “tunnel visors” to “cut-away visors, which helped to alleviate some of the difficulty viewing the signal indicators.

Additionally, during the Planning Commission site visit yesterday there were some questions regarding traffic counts for this intersection and I have some information on that to share. On January 6, 2009, the City had a traffic counter positioned on Country Club Road between Blue Ridge Drive and Carlton Street; there were 4,658 vehicles that traveled eastbound and 4,994 vehicles that traveled westbound on Country Club Road. Most, if not all, vehicles traveled through the Country Club Road/Blue Ridge Drive intersection. Furthermore, based upon the Virginia Department of Transportation’s (VDOT) annual average daily traffic volume estimates, 4,400

vehicles traveled Blue Ridge Drive between Star Crest Drive and Country Club Road. The City's most recent count was from April 2012, on Country Club Road between Vine Street and Carlton Street; there were 6,020 vehicles that traveled westbound and 5,321 vehicles that traveled eastbound. The difference between this 2012 study and the one completed in 2009 is likely related to the difference in locations (north of Carlton in 2012; south of Carlton in 2009) and the fact that the 2009 count was done while JMU was on winter break, while the 2012 count was done while classes were still in session. The 2013 VDOT traffic count for Blue Ridge Drive between Star Crest Drive and Country Club Road was 4,300 vehicles.

The 2009 MFDH operated from this location for some time; staff did not receive concerns. Nonetheless, staff continues to have the same concerns regarding the traffic safety entering and exiting the site. If Planning Commission however, desires to recommend approval to City Council, staff suggests that the following conditions be placed on the special use permit:

1. Vehicles shall not be permitted to exit the property onto Country Club Road. All vehicles shall exit onto Blue Ridge Drive.
2. The existing island area created by the connecting portions of the driveway, near the southwestern property corner, shall remain open space for improved sight distance. All planting within this area shall be low-lying and/or ground covering vegetation.
3. The connecting portions of the driveway shall remain open at all times to allow parents/guardians to maneuver on and off of the property without utilizing the public right-of-way. Therefore, parking is prohibited on these portions of the driveway.
4. If City Council finds traffic conditions warrant re-evaluation of the "major family day home," they may require the applicant to return to Planning Commission to re-examine the use of the property. It shall be at the discretion of Planning Commission and/or City Council to determine if the re-evaluation shall necessitate a public hearing. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.

Dr. Dilts asked if staff discussed, or if it was discussed at the last public hearing, the idea of limiting turns out of the driveway on to Blue Ridge Drive, to right turns only.

Mr. Fletcher replied we did not discuss that during this review and I do not recall from the last public hearing in 2009. There were so many different scenarios that were talked about in the public hearing as well as with staff when reviewing the 2009 SUP.

Mrs. Turner said it was discussed in the public hearing format last time. I believe at that time some of the parents spoke about the hardship it would cause them if that was the case.

Dr. Dilts said in what sense would it be a hardship?

Mrs. Turner said only being able to turn right on to Blue Ridge Drive. It was not a direct route for them and would require some of the parents to go a great distance out of their way.

Dr. Dilts said it appears to be a safer way.

Mrs. Turner said I do not know how seriously anyone on Planning Commission considered it; but, it was discussed and I recall the opposition from some of the parents.

Dr. Dilts said if you turn left on to Blue Ridge Drive, you go directly into the intersection. If this were approved, it seems that it would be better to require a right turn only; it appears to be safer.

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

Aneta Smialek, 521 Blue Ridge Drive, said she is the applicant. I would like to state that we did operate from this location for eleven months. We had no incidents or accidents. All of our parents had been provided instructions as part of their application on how to maneuver in and out, where to park, and we had signage on the property as to which direction they could leave. If there were questions from the parents, we would show them how to enter, park, and exit. All the parents followed the directions.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the SUP request. Hearing none, she closed the public hearing and asked if there were any further questions or perhaps discussion on the request.

Dr. Dilts said she would like to re-introduce the right turn only idea. If we were to recommend approval I would like to see a condition of right turn only out of the driveway onto Blue Ridge Drive.

Mr. Colman said I completely agree with you. As we saw yesterday there is just no way to exit and turn left safely. The only things we do not know are the hours of operation for the MFDH. What time are pick-up and drop-offs? That could mitigate some of the concerns. Do we have that information?

Ms. Smialek said the day home would operate 24/7.

Chair Fitzgerald said there is some data to show that traffic on one of the roads at the intersection has measurably increased between 2009 and now.

Mr. Colman said do we have the most current accident data on that particular intersection?

Mr. Fletcher said nothing current.

Chair Fitzgerald said the fact is that children could be dropped off at any time; from dead-of-night with little traffic, to very busy times like we saw yesterday.

Mr. Heatwole said I realize we were there at the worse time of day yesterday; but, I am inclined to agree with Commissioner Dilts that if there was a right turn only restriction, it could make it a bit safer.

Ms. Smialek said the shifts for the day home are generally from 5:30 a.m. to 2:30 p.m.; 2:30 p.m. to 11:30 p.m.; and a night shift until 5:30 a.m.

Chair Fitzgerald said there are predictable times for when the children arrive and leave.

Ms. Smialek replied yes.

Mr. Way moved to recommend approval of the requested special use permit with conditions as presented and the condition of a right turn only when exiting onto Blue Ridge Drive.

Dr. Dilts seconded.

All voted in favor of the motion (6-0).

Chair Fitzgerald said this will move forward to City Council on August 11, 2015 with a favorable recommendation.

Rezoning – 412 South Main Street (B-2 Conditional to B-1 Conditional)

Chair Fitzgerald read the next request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Professional. This designations states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

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

Site: Joshua Wilton House inn and restaurant, zoned B-2C

North: Across Campbell Street, St. Stephens United Church of Christ, zoned B-2

East: A parcel containing the private drive to Campbell Court (a multi-family complex), zoned R-3, further east—on a separate parcel—a single family dwelling, zoned R-3

South: Campbell Court, zoned R-3, and Union bank (fronting South Main Street), zoned B-2C

West: Across South Main Street, Planning and Community Development building, Municipal Building, and the new City Hall (under construction), zoned B-1

The applicants are requesting to rezone 412 South Main Street—the Joshua Wilton House (JWH) inn and restaurant property—from B-2C, General Business District Conditional to B-1C, Central Business District Conditional. The property is located on the southeastern corner of the South Main Street/Campbell Street intersection in the City’s downtown. The existing B-2C zoning has been in effect since 1987 when previous property owners requested it be rezoned from R-3 to B-2C to make way for the inn and restaurant. The proffers approved at that time and which remain in effect today are (written verbatim):

1. Dwelling (Joshua Wilton House) will be converted into an inn and restaurant.
2. Restaurant will not be open to the public on Sundays prior to 12:00 o’clock noon.
3. The use of the property will be restricted to an inn and restaurant, and no other use otherwise permitted under the current B-2 zoning district will be permitted.

The applicants’ primary objective for rezoning the property is to rectify setback violations that were recently discovered by the new owners earlier this year.

Back in 1986, when the property was zoned R-3, and when the 1984-era Zoning Ordinance was in effect, a 1986 physical survey of the property revealed the building was conforming to all setback regulations except the side of the building that faced Campbell Street—that side needed a 30-foot setback, but only had (what appears to have been) a 24.3-foot setback. When the property was rezoned to B-2C in 1987, the structure became non-conforming to setbacks on the south side of the property as well because the B-2 zoning district required (and still does) 30-foot setbacks along any line adjacent to a residentially zoned property.

In 1988, three setback variances were approved by the Board of Zoning Appeals (BZA), which granted the property owners the ability to have a rear setback (along the eastern property line) of 8 feet and to have a side yard setback (along the southern property line) of 10 feet for planned additions to the JWH. The third setback variance allowed for a gazebo to be installed on the property at no closer than 5 feet from both the side and rear property lines. During the same BZA hearing, the applicants also requested for the BZA to formally approve/clarify that the property was considered conforming to off-street parking regulations. The applicants claimed a deviation to the off-street parking regulations was approved by Planning Commission and City Council during the rezoning of the property because the applicants indicated during that process that they would rely on public parking facilities. The minutes of the BZA hearing also reflect the applicant's attorney stating that they would rely on the municipal parking lot. In the end, along with approving the setback variances, the BZA formally recognized approval of a parking variance.

The approved 1988 BZA variance rectified the south side setback non-conformity as described above. Unfortunately, the addition that was built on this side of the building was, on average, 0.3 feet too close to the lot line (the survey reflects the corners at 9.6 and 9.8 feet away from the line). Furthermore, the gazebo was also located too close to the side and rear property lines as it sits, at its closest point, 2.2 feet from the rear property line. The rear addition though, toward the eastern property line, was built within the allowable setback.

Later, in 1995, the same previous property owners requested another setback variance from the BZA, hoping to allow for a 7-foot setback so that they could build another addition on the southern side of the building. The BZA granted them the variance but the approval was permitted only for the addition that was planned at that time. Unfortunately, again, the addition was built too close to the side property line, where it encroaches the setback by 0.3 feet.

When these matters were brought to the new owners' attention earlier this year, staff informed them that they should work toward rectifying the violations. Staff explained they had several options including: to request another setback variance from the BZA; to request rezoning the property to B-1; to request a special use permit per Section 10-3-91 (9), which allows for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-1 or M-1; or to perform a minor subdivision with the adjacent property to the south to move the dividing line to a distance that would bring the property in compliance with setback regulations.

The applicants ultimately chose the rezoning option and have submitted the following proffers (written verbatim):

1. The subject property shall only be used for inn (transient lodging), restaurant and related activities such as weddings, meetings, civic and other special events. Catering activities for off-premises purposes shall also be permitted.
2. The restaurant operation shall not be open to the public between the hours of 1:00 am to 11:00 a.m. on Sundays. Limited food service to in-house inn guests from the kitchen may be provided during these hours.
3. The property shall maintain the existing off-street parking area enclosed by the existing vinyl fencing on the north side of the property adjacent to Campbell Street. Portions of the property (not restricting the Campbell Street entrance), may also be used for non-permanent outdoor storage of landscaping, construction or similar materials (with outdoor storage at no time to take up more than 20% of the fenced-in area).

4. The property shall maintain a thirty-foot (30') setback along South Main Street and a twenty foot (20') setback along Campbell Street for permanent structures. Fences, patios or other non-enclosed and uncovered structures shall not be subject to this restriction.

Staff is recommending approval of the applicants' request. The rezoning with the submitted proffers, while rectifying their setback violations and bringing into compliance the property's non-conforming setback along Campbell Street, more or less, maintains the existing regulations of the property. If approved, the only difference among the existing controls and the proposed proffers is that the restaurant would be able to operate for two additional hours on Sundays, which would be between the hours of 12:00 and 1:00 a.m. and 11:00 a.m. and 12:00 p.m.

Staff appreciates the applicants' willingness to proffer setback restrictions along South Main and Campbell Streets. These proffered setback restrictions are similar to two other approved proffered setbacks on nearby properties that have been rezoned from B-2 to B-1C including:

- 312 South Main Street – rezoned in 2006 with a 20-foot setback along South Main Street and Franklin Street, and
- 342 South Main Street – rezoned in 2012 with a front and rear setback of 20-feet.

Such restrictions should help preserve the front yard and street aesthetics that this and many other historic properties provide along this section of these downtown streets.

As most are aware, when a property is zoned B-1 the expectation is the uses that operate at the site can rely on public parking lots and decks and utilize on-street parking spaces. Often, staff has concerns with parking issues when a property owner is requesting to rezone a parcel to the B-1 district as adding such zoning places more strain on the City's downtown public parking facilities. However, in this particular case, staff does not have this concern. As noted above, although an unorthodox approach, the property received a variance to parking regulations through the combined rezoning and BZA approvals in the late 1980s. With the current request, the submitted proffer #3 essentially maintains the existing off-street parking area and, for the most part, how they have been operating since the inn and restaurant's existence. The change in hours of operation though, and specifically the additional hour between 11:00 a.m. and 12:00 p.m. does add slightly more parking demand. When the property was rezoned back in 1987, the City Council minutes reflect that the proffer to not operate before 12:00 noon was "to accommodate the activities of St. Stephens [*sic*] United Church of Christ." As the church's sign currently advertises, church activities begin at 9:30 a.m. and 10:30 a.m., thus if the restaurant opens at 11:00 a.m., many of the "prime" parking spaces will likely be taken by churchgoers. Staff does not believe this additional hour of operation should cause significant parking issues.

With regard to the Comprehensive Plan, although this property is designated Professional by the Land Use Guide, it falls just outside the boundary of the Mixed Use Development Area (MUDA)—the designation typically associated with the B-1 district—as the City Municipal Complex property across South Main Street and St. Stephen's church across Campbell Street are designated MUDA. Given the specifics of this particular request, staff does not believe rezoning the property to B-1C will set a negative precedent for this area of the downtown.

Staff recommends approving the rezoning to B-1C with the submitted proffers.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked the applicant or the applicant's representative to come forward and speak.

Mr. Rodney Eagle said he is partners with Jeff Hill and Joe Erwin in the Joshua Wilton House. The only thing I would like to add is that we hope to make the City an excellent neighbor. We fully intend to make this something that the City of Harrisonburg will be proud of for years to come. Thank you for your consideration on this request.

Chair Fitzgerald asked if there was anyone else wishing to speak regarding the rezoning request.

Roberta Fernandez, 95 Campbell Street, said she is the R-3 zoned, single-family home directly behind the Joshua Wilton House. I would like to say that I whole heartedly support this request. In my three years residing there, the Joshua Wilton House has been an excellent neighbor and I have no doubt that they will continue to be. Probably they will be even better neighbors in the future.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the rezoning request. Hearing none, she closed the public hearing and asked if there were any further questions or perhaps discussion on the request.

Mr. Way said this request makes a lot of sense, not only is it a great business institution for the City, it also provides a very nice, graceful entryway for the downtown area of the City.

Mr. Da'Mes asked Commissioner Way if during the next Comprehensive Plan review he would consider incorporating more of that particular block into the downtown, B-1 zoning district.

Mr. Way said if it could be done in a way that would make sense. The idea of the zero setbacks is worrisome; it is nice to have the front setback and lawn areas as you come down South Main Street.

Mr. Colman moved to recommend approval of the rezoning request with the proffers as presented.

Mr. Heatwole seconded the motion.

All voted in favor of the motion to recommend approval (6-0).

Chair Fitzgerald said this will move forward to City Council on August 11, 2015 with a favorable recommendation.

Rezoning – Chatham Square 2015 Amendment

Chair Fitzgerald read the next request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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

Site: Chatham Square residential community, zoned R-6

North: Across Betts Road, single family dwellings and an undeveloped parcel, zoned R-1

East: Single family dwellings, and across Betts Road, single family dwellings, zoned R-1

South: Undeveloped wooded property, zoned R-1

West: Across East Market Street, commercial uses, zoned B-2

Multiple property owners from the Chatham Square residential community are requesting to rezone most of the Chatham Square community by amending the 2006 approved R-6, Low Density Mixed Residential Planned Community District master plan. The primary objective is to reduce the number of permissible single family dwellings from 38 to 26. The proposed changes maintain the original layout, the planned look of the single family homes, the planned brick wall surrounding the community, and the walking path and gazebo. If approved, two existing developed single family home properties addressed at 2394 and 2378 Alston Circle (tax map parcels 74-J-27 and 74-J-31) would continue being regulated by the original 2006 Chatham Square master plan. (Included within the packet is the existing master plan narrative and layout for ease of comparison with the proposed changes.)

In July 2006, the property was rezoned from R-1, Single Family Residential District to R-6 to allow for 38 single family homes along private streets. By August 2007, an engineered comprehensive site plan was approved allowing for the site development to begin. In November 2008, the property was preliminarily platted with a variance to the Subdivision Ordinance allowing the lots to be created without the required public street frontage. The existing lots were created after staff approved the final plat in April 2009, when the subdivision was recorded later in June of the same year. To date, the development's infrastructure (private streets, sidewalks, utilities, etc.) is complete along with the street improvements the developers were required to make for Betts Road and the pedestrian improvements along East Market Street. Six single family homes are complete, portions of the brick wall have been built, and the community's gazebo is in place.

As proposed, along with reducing the number of allowable single family homes, the amendment process is allowing them to clarify how matters normally regulated by the Zoning Ordinance's Article T will be governed within the community (i.e. accessory buildings and allowable heights of walls and fences) and to more clearly specify minimum lot dimensions and permissible parcel square footages. In the end, the proposed amendments herein provide more flexibility for the development and do not change the original intent of Chatham Square.

If approved, the desired changes to the lot configurations do not need to be approved by Planning Commission or City Council. Rather, these changes can be accommodated via an administrative minor subdivision process.

Reducing the number of parcels will probably impact water and sewer service connections. The 2007 approved comprehensive site plan demonstrated that 38 water and sewer services would be installed for the planned units/lots. Because these services have already been installed per the approved comprehensive site plan and approved final plat line locations, some services may be required to be removed while new service connections may be required to be installed and/or new easements dedicated to reach the new lots. This impact will be evaluated during the subdivision process. The applicants should be aware a revised comprehensive site plan sheet will likely be needed to accommodate the changes.

Staff believes the changes herein proposed are in the best interest of the community and the City and recommends approving the rezoning to amend the governing regulations of the Chatham Square master plan (except for the two parcels as identified).

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked

Mr. Dick Blackwell, Blackwell Engineering, said I do not have many clients that want to reduce the number of lots for their development. First of all they have built several very large, nice homes, which they desire to continue; however, they need a bit more space for the lots, some were only 4,000 square feet. This rezoning does not change anything – it is the same road system, all the amenities are there. We will meet whatever the Public Utilities Department needs to handle the extra utilities.

Chair Fitzgerald asked if there were any questions for the applicant. Hearing none and with no one else present to speak, she closed the public hearing and asked Planning Commission if there was a motion.

Mr. Way moved to recommend approval of the rezoning request as presented.

Mr. Da'Mes seconded the motion.

Chair Fitzgerald asked if there was any further discussion on this. Hearing none, she called for a voice vote on the motion to recommend approval.

All voted in favor (6-0).

Chair Fitzgerald said this will go to City Council on August 11th with a favorable recommendation.

Zoning Ordinance Amendment – Section 10-3-24 (To align Definitions of Minor and Major Family Day Homes with recent changes to the Code of Virginia)

On April 30, 2015, the State approved several changes to the Code of Virginia related to Family Day Homes (per the 2015 Virginia Acts of Assembly SB 1160 and HB 1570). Most of the provisions in the bill took effect July 1, 2015. The changes impacted the City's existing Zoning Ordinance definitions for "minor family day homes" and "major family day homes." The changes herein proposed by staff are to modify those definitions to align with the recent changes to the Code of Virginia.

Currently, a minor family day home is a child day care program offered in the home of the provider for one to five children while a major family day home is a program offering care for six to twelve children. In either case, the provider's children and any children residing in the home do not count against the total number they are allowed to provide care for. As shown below, the proposed amendment would change the total number of children allowed in a minor family day home to one to four children while a major family day home would be defined as having five to twelve children.

Family day home, minor: A child day care program offered in the residence of the provider or the home of any of the children in care for one (1) through ~~five (5)~~ four (4) children under the age of thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation. A minor family day home shall be considered a home occupation and therefore requires that a home occupation permit be granted by the zoning administrator; however, no conditions more restrictive than those imposed on residences occupied by a single family shall be imposed on the day home.

Family day home, major: A child day care program offered in the residence of the provider or the home of any of the children in care for ~~six (6)~~ five (5) through twelve (12) children under the age of thirteen

(13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation.

Staff recommends approving the proposed amendments.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing. With no public present to speak she closed the public hearing and asked for a motion.

Dr. Dilts moved to recommend approval of the amendment as presented by staff.

Mr. Colman seconded the motion.

All voted in favor of the motion (6-0).

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said proactive enforcement occurred in the Fairway Hills sector where two inoperable vehicle violations were discovered. Next month they will be in the Smithland Road area of the City.

Chair Fitzgerald asked if there was anything from the last Council meeting.

Mrs. Turner said there were no items from Planning Commission at the June 23rd meeting and we are meeting before the first Council meeting in July.

Mr. Way said at the Rockingham County Planning Commission last night it was crowded. There were several ordinance amendments and a contentious rezoning request. It was ultimately tabled in the end.

Other Matters

Dr. Dilts asked if the ruling of the Supreme Court regarding signs affected us. How are you dealing with that?

Mr. Fletcher said we are aware and there may be some discussion about it. I do not know how much it really affects us. We have not had a thorough discussion with the City Attorney on the matter yet.

Mrs. Turner said the City Attorney has said that it is a subject of a lot of discussion on the “list serve” so there are still a lot of questions as to what the implications are.

Adjournment

Planning Commission adjourned at 8:20 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks