MINUTES OF HARRISONBURG PLANNING COMMISSION
October 14, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, October 14, 2015 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, Deb Fitzgerald, Jefferson Heatwole and Henry Way.

Members absent: None

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

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

Dr. Dilts moved to approve the minutes as presented.

Mr. Way seconded the motion.

All members voted in favor of approving the September 2015 minutes as presented (7-0).

New Business

Private School Off-Street Parking Approval Request – Minnick School (1661 Virginia Avenue)

Chair Fitzgerald read the request and asked staff to review.

Mr. Colman recused himself from the meeting at this time (7:01 p.m.).

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

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

Site: Vacant building, zoned B-2

North: Professional Offices, zoned B-2

East: Across Virginia Avenue, retail and commercial businesses, zoned B-2 and entrance to Park Rose Village, zoned R-3C

South: Independent/Assisted Living facility, zoned R-3

West: Townhouses, zoned R-3

Minnick School is seeking to relocate from their current location at 775 Massanutten Street to a 14,750 square foot facility at 1661 Virginia Avenue. In doing so, they must receive approval of their parking plan as required by Section 10-3-25(12) of the Zoning Ordinance (ZO) for the new facility. This section specifies that off-street parking for schools is programmed by the applicable school authorities as necessary to meet state standards for the proposed use and then shall be reviewed and approved by Planning Commission. Essentially, each school determines the amount of parking they feel is adequate for their site and their uses; for the parking to be in compliance with the ZO, Planning Commission must approve the off-street parking plan.

In May 2007, Minnick School requested a special use permit (SUP) per Section 10-3-97(9) of the ZO to operate their facility within the M-1, General Industrial District at 775 Massanutten Street. Along with the SUP request the school provided an off-street parking plan for Planning Commission approval. The 2007 parking layout projected 60 students and 40 employees within the 10,824 square foot facility, and provided 57 off-street parking spaces; staff had no concerns with their parking plan and recommended in favor of the request. In the end, the Department of Education (DOE) licensed the school for 50 students and 28 employees. Since opening at the current location the school has routinely had up to 20 available parking spaces during the school day, which has complicated the management of the school at this location due to the fact individuals from the surrounding businesses have consistently used the available spaces for their parking. Ultimately, the location along Massanutten Street has not worked out for Minnick School and they are hoping to relocate to the new site at 1661 Virginia Avenue.

Minnick School is intending to ask the DOE to license the new facility for up to nine classrooms with a projected 72 students and 32 staff (27 teachers/assistants and five administrative support staff). The applicants believe that 57 parking spaces are sufficient for parking and have provided a site plan showing the proposed parking layout. Students would arrive to and be picked up from the school either by regular or small buses, vans, or cars; only staff vehicles would be parked throughout the day. At the new location, with the estimated 72 students, the mix and number of vehicles would be projected at three regular buses, two small buses, and ten vans/cars.

Staff has discussed with the applicants that all queuing of vehicles from the parking lot must not extend in to the public right-of-way including the sidewalk. As well, vehicles turning into the site from Virginia Avenue need to be able to enter without stopping and waiting on vehicles already positioned on-site.

The applicants state that with 57 parking spaces, the vans and cars could park in spaces to load and unload students, while the buses would wait in line for pick-up. This scenario would not block traffic on Virginia Avenue, restrict right-of-way, or have vehicles waiting in the street. Lastly, the applicants plan to widen the entrance on the site to allow adequate space for vehicles to enter and exit at the same time.

Staff believes the requested 57 parking spaces are sufficient for the needs of the school. The provided parking layout, along with the proposed widening of the entrance, meets the requirements of the Design and Construction Standards for parking lots. Staff recommends approval of the parking plan.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she said we are not required to hold a public hearing for this request; however, we do typically ask the applicant or the applicant's representative if they would like to speak at this time.

Mr. David Pruett, Chief Financial Officer with Lutheran Family Services of Virginia, said he would be happy to answer any questions.

Mr. Da'Mes asked what age group would be served by the new school.

Mr. Pruett replied elementary and middle school students. This will be students with emotional disabilities, and behavioral issues, and also children with autism and children who are on the autism spectrum.

Mr. Da'Mes said we know this site was previously used for pre-school and day care. In terms of recreational and outdoor activities, what does the DOE require? I am just wondering how they might utilize outside space, which obviously would be the parking lot.

Mr. Pruett replied there is outdoor space behind the building and some space to the left of the building. We also hope to work out some partnerships with Eastern Mennonite School and possibly utilize some of their staff for some possible intern positions and perhaps using some of their facilities. This area may have a little bit less recreation space for the students than we currently have; but it is safer. We do have more educational space at this location.

Chair Fitzgerald asked if there were further questions. Hearing none, she asked if there was a motion.

Mr. Fletcher reminded the Planning Commission that this item would not move forward to City Council.

Dr. Dilts moved to approve the parking plan as shown for 1661 Virginia Avenue.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote.

All voted in favor (6-0) of approving the parking plan as shown for the Minnick School at 1661 Virginia Avenue.

Mr. Colman returned to the chambers at this time (7:12 p.m.).

Special Use Permit – 1214 Windsor Road (MFDH 2015 Amendment)

Chair Fitzgerald read the request and asked staff for a 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 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 and major family day home operation, zoned R-1

North: Single-family dwelling, zoned R-1

East: Single-family dwellings fronting along Nelson Drive, zoned R-1

South: Single-family dwelling, zoned R-1

West: Across Windsor Road, Single-family dwellings, zoned R-1

The applicant is requesting to amend an existing special use permit (SUP) allowing a Major Family Day Home (MFDH) in the R-1, Single Family Residential District per Section 10-3-34 (6) of the Zoning Ordinance (ZO). A major family day home is described as providing care for five to 12 children under the age of 13, exclusive of any children who reside in the home. Major family day homes are limited as to the number children that receive care in the residence at any one time; however, they are not limited to the number of children they may have enrolled.

Tots 'N Toyland, a MFDH, received approval of a SUP in July 2014 to operate from the 21,444 +/- square foot parcel located at 1214 Windsor Road. The property is located on a narrow cul-de-sac road, which allows parking along the street right-of-way; however, the street is not improved with curb, gutter, or sidewalk. During the 2014 SUP process, staff expressed concerns regarding parking along the shoulder of the road, possibly impeding traffic; but ultimately recommended in favor of the SUP with a suggested condition that if parking became a nuisance, the SUP could be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit. Planning Commission recommended approval (7-0) of the request with the suggested condition. At the City Council public hearing, there were neighborhood concerns regarding traffic increases and safety with the proposed MFDH use. The request was tabled awaiting further information from the Harrisonburg Fire Department and Rescue Squad, before eventually being approved (3-2) with an additional condition that the number of children served is limited to ten.

The applicant currently has a total of 11 children enrolled, either full-time or part-time and one employee who has been with Tots 'N Toyland since opening. The facility encompasses approximately 714 square feet within the home and has a large fenced, outdoor play area that is located about 150-feet from the roadway. Since being licensed by the Department of Social Services (DSS) last year there have been a total of three unannounced inspections by DSS with no violations.

The hours of operation for the MFDH are 7:30 a.m. until 5:30 p.m., Monday through Friday. Parents are instructed to park at the top of the driveway when dropping off or picking up children throughout the day. There is ample room for three vehicles to maneuver on site without blocking vehicles in. The employee parking is also at the top of the driveway beside the house or in the garage.

The applicant is requesting to increase the number of children from ten to the maximum 12. This increase is to accommodate the forthcoming birth of the sole employee's child and the forthcoming birth of a child, who will be the sibling of a currently enrolled child.

Staff has received no concerns regarding the use, parking, or traffic since the 2014 SUP approval. Staff recommends in favor of the request to amend the SUP with the following condition:

> If in the opinion of Planning Commission or City Council, parking becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Fitzgerald said if I understand correctly the number of cars that go in and out of this facility every day will likely not change, because it is two pregnancies of existing persons coming to the site.

Mrs. Banks said that is correct.

Mr. Baugh said in all fairness, that is the near term plan, not a restriction.

Mr. Way said for clarification, 12 is the maximum number allowed for a MFDH.

Mrs. Banks said yes, this would bring it to the maximum allowed by DSS.

Mr. Baugh said for whatever reason, as someone who supported this the first time the number of ten was somewhat of a trade-off that happened at Council. The third consenting vote was comfortable with the total being reduced to ten and that is where the number came from.

Mr. Colman said is the 12 a total number or is it a total of children on site.

Mrs. Banks said 12 is the maximum number of children being served in the facility at any one time. Of course this is exclusive of the applicant's children.

Mr. Baugh said that was actually the issue with City Council. It is exclusive of the applicant's children; but, her children have friends that regularly come over. Because of the regulations ten was the lowest number she could have on the premises; it is not that they are all actually enrolled in the day care.

Mr. Fletcher said these are the numbers that are regulated by the State; not a regulation of the City of Harrisonburg.

Mr. Colman said from that standpoint, traffic is not just limited to 12 parents and kids, it could be 24 kids enrolled.

Mr. Da'Mes said are you thinking instead of focusing on the number of children enrolled, we should be focusing on the number of vehicles coming and going.

Mr. Colman said the main concern is traffic.

Mr. Fletcher said remember at last year's public hearing, Planning Commission voted in favor of the maximum 12. Both staff and Planning Commission recommended in favor of the maximum students, it was not until it got to City Council that the number was reduced.

Chair Fitzgerald opened the public hearing and asked the applicant to come forward and speak.

Erica Dorsey, 1214 Windsor Road, said she is the applicant. She then introduced her neighbor Roger Jones, who lives next door. As it has already been stated, the need for the increase is my sole employee who is also my sister and has been there since the beginning of the program and will continue to be there, is expecting. Since we opened over a year ago we have had no complaints. As a matter of fact, I have spoken to each individual neighbor in person on my street, as well as Mr. Hopkins who lives behind on the other street. Mr. Hopkins had brought forward several concerns to City Council last year and he is completely in favor of this request.

We are the only Family Day Home that has not had any violations from the DSS. Safety is a huge concern of ours. There would not be an increase in traffic. We have 58 children on our waiting list since opening last year. I cannot operate without my employee because of the ratio required by DSS; therefore, if this request gets turned down, we will have to release one of our enrolled children to make room for her child. We do not want to do that, but it would be our only choice because the employee is vital to the entire operation. That is why we are here tonight and we would appreciate your support.

Mr. Roger Jones, 1216 Windsor Road, said he is the closest neighbor to the MFDH. Since the original permission was granted in July 2014, there has been no noise from the children that I am aware of. There has also been no problem with traffic; the only time I see traffic is when a parent is picking up a child. On Windsor Road there is not much traffic so you would notice.

Mr. Da'Mes said are you able to see all the traffic flow into and out of the day care facility?

Mr. Jones said there is not any traffic flow; there is just the occasional vehicle. There is no additional traffic on the road at all.

Mrs. Dorsey said of our current 11 children, there are two sets of siblings, so there are only maybe eight cars.

Mr. Heatwole said these vehicles are not parking on Windsor Road they are actually coming into the driveway to drop-off and turn around.

Mrs. Dorsey said correct, there are actually cars parked on Windsor Road, but they are not coming to my home or facility.

Chair Fitzgerald asked if there were any further questions for Mrs. Dorsey or Mr. Jones. Hearing none, she asked if there was anyone else wanting to speak in favor of or opposed to the request. Hearing none, she closed the public hearing and asked for discussion.

Mr. Colman moved to recommend approval of the request with the same condition as imposed by Planning Commission in 2014.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion to recommend approval with the condition.

All voted in favor of the motion (7-0).

Chair Fitzgerald said this item will go to City Council on November 10th with a favorable recommendation.

Zoning Ordinance Amendment – Section 10-3-26 (To Allow Required Parking for Business and Professional Office Uses to be Off-Site within Specified Downtown Locations)

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said Staff is proposing to amend the Zoning Ordinance's Article G Off-Street Parking regulations Section 10-3-26 titled Location in Relation to Building or Use Served. The proposed amendment would modify subsection (a) (1) by adding the ability for business and professional office uses located within a specified downtown boundary to meet minimum off-street parking requirements by locating parking spaces on properties that are not on the same or adjoining parcels from the use served.

Currently, Section 10-3-26 has two subsections: (a) and (b). Subsection (a) regulates where minimum parking spaces shall be located and requires them on the same lot with the building or use served or on adjoining lots, where the use of parking must be allowed by the adjoining property's zoning district. When parking is located on an adjacent property, a shared parking agreement must be established among all of the participating property owners, where the agreement must be effective for at least 10 years following the date of City approval. Subsection (a) further grants Planning Commission the ability to allow, by request, assembly uses (i.e. religious places of worship, theaters, etc.) to borrow parking from other public or private parking facilities, which are properly zoned and in reasonable proximity to the assembly use. Subsection (b) was added to the Zoning Ordinance in March 2012 creating flexibility in allowing uses located on contiguous but separate lots to reduce the number of required parking spaces based upon the ordinance's shared parking calculations table for particular uses. Unless a reduction in required parking is approved by the Zoning Administrator as allowed by subsection (b), the minimum sum of required parking spaces for all uses must be provided on the parking lot (or lots) used.

Before getting into the details of the proposed amendment, it should be understood that this is not the first instance of allowing particular uses to locate required parking spaces as otherwise regulated by Section 10-3-26 (a).

In April 2012, staff proposed an amendment to afford industrial operations for the manufacturing, processing, storage, or treatment of products—allowed in the M-1 district—to locate required parking on M-1 or B-2 properties within "reasonable proximity" of the use served. Staff had recognized that such uses often operated in a "campus-like" setting, where it created opportunities for industrial operations to create more jobs without the concern of needing additional space on-site for required parking. That amendment also opened the door for smaller, industrially zoned properties that may have been overlooked for such uses the opportunity to be utilized for these types of industries. The amendment was recommended for approval unanimously by Planning Commission (7-0) and approved by City Council (4-0).

Then in December 2012, along with requesting to rezone 305 North High Street from R-2 to R-3C to allow that property to be used as a charitable and benevolent institutional use, Mercy House, Inc. proposed an amendment to Section 10-3-26 (a) to allow charitable and benevolent institutional uses the ability to locate parking on parcels that are not on the same or adjoining parcel as the organization served. Unlike the industrial parking off-site accommodation as described in the previous paragraph, this amendment was very narrowly tailored to their exact situation, where along with ensuring the parcel used for parking was permitted by zoning, the parking lot had to be "located directly across local public and private streets and/or alleys (as depicted on the Comprehensive Plan's Street Network Map) from one another." Staff recommended denial of this amendment believing it was too narrowly tailored to their exact situation. Planning Commission recommended approval of the request (5-1) and City Council approved the amendment unanimously (5-0).

With regard to the currently proposed amendment, staff is recommending allowing business and professional office uses flexibility to meet off-street parking requirements, similar to the previous two amendments, but only when the specified uses are located within the described downtown boundary. The proposed modification includes adding an additional subsection to Section 10-3-26 (a) (1) as follows:

> c. Business and professional office uses located on any parcel within the area bounded by Gay Street to the north, Mason Street to the east, Martin Luther King Jr. Way to the south, and High Street to the west may also locate required parking on parcels that are not on the same or adjoining parcels from the uses served. Such parcels shall be zoned where such parking is permitted, may be located across public or private streets and/or alleys, and shall be no more than one quarter (¼) mile from the use served. A common or cooperative location shall be in the ownership of all of the participating property owners or shall have easement and maintenance agreements between the participating property owners for a period of at least ten (10) years following the date of city approval.

(A map illustrating the proposed boundary is included within the packet.)

Note that the building or professional office use must be located within the boundary to take advantage of this accommodation, but that the off-site parking may be located within or outside of the boundary so long as the parcel's zoning permits parking and the site is no more than one quarter

mile from the use served. Like the previous two off-site parking allowances, operators of the noted uses would be required to secure a shared parking agreement with property owners of parking lots, where the agreement must last for at least 10 years.

The prompting of staff's evaluation and decision to prepare the proposed amendment on our own initiative originally came from a citizen's desire to convert the residential property at 37 Paul Street to a professional office. At first glance, the Paul Street property appeared to fit the bill for a residential use to professional office conversion. The property is zoned R-3, Medium Density Residential District, which allows professional offices by right; it has more than the minimum 6,000 square feet of lot area to operate a non-residential use in the R-3 district with approximately 7,200 square feet of lot area (about 60 feet wide by 120 feet in depth). The site is improved with a very well maintained, historical residential structure containing almost 2,600 square feet. The Comprehensive Plan's Land Use Guide designates the property as Professional, thus the desired use would be conforming to the long term plans for the property; and the property is within the Plan's illustrated Downtown Revitalization Area, which seeks to continue efforts for the downtown to be "an economic engine."

Although there would be significant and potentially costly issues to address with regard to the Building Code to convert the residential structure to a professional office, once those issues are rectified, the professional office still has to provide nine off-street parking spaces. Unfortunately, the site proved to be too small to accommodate all nine spaces and the citizen desiring to operate the professional office was unsuccessful in utilizing the existing flexibility offered by the Zoning Ordinance by securing a shared parking agreement with either of the two adjacent property owners that have existing parking lots. The citizen is, however, likely able to obtain an agreement with the Elks Lodge, which is located across the street from 37 Paul Street; but, the Zoning Ordinance does not allow counting locations across the street toward meeting minimum parking requirements.

After many conversations were had with the citizen desiring to use the property as a professional office, and in knowing the desired use was in line with the Comprehensive Plan, staff began investigating how an amendment might allow a professional office at this location to meet off-street parking regulations. Staff did not, however, want to create a very narrowly tailored amendment to simply satisfy this particular situation as we recognized this same issue could likely occur within the fringe of the downtown area, where the Comprehensive Plan promoted non-residential uses.

Staff believes the proposed amendment will be successful not only for R-3 or UR/R-P properties that allow professional offices, but also for other small, downtown properties that could be zoned B-2 (where in addition to professional offices, business offices are permitted), but are not likely to be rezoned to B-1, where the City would have to absorb the parking demand. Staff proposed the amendment for professional and business offices because the Zoning Ordinance requires the same off-street parking requirement ratio at 1 space per 300 square feet of gross floor area. The proposed boundary was chosen because of its overlap among much of the area that the Comprehensive Plan designates as Mixed Use Development Areas, the overlap of the Plan's Downtown Revitalization Area, and for areas that are on the "fringe" of downtown, where many parcels are designated for Professional or Planned Business use.

Staff believes the modification is good practice and recommends approving the proposed amendment.

Mr. Da'Mes said why not include churches and benevolent uses within this ordinance amendment. It appears the boundary incorporates quite a few churches which are in need of extra space.

Mr. Fletcher said in this particular case for business and professional office uses the parking ratio is the same, it is one parking space for every 300 square feet of gross floor area of the use. Charitable and benevolent office would be one per 300 as well; whereas parking for churches is a different ratio based upon one parking space for every ten fixed seats in the largest assembly. Churches also have a relief mechanism for shared parking already built into the Zoning Ordinance.

Mr. Way asked about the reasoning for the quarter mile limit rather than just across the street.

Mr. Fletcher said I know this body has discussed what a quarter mile radius means when discussing a walkable neighborhood, and I did research this further. The quarter mile is not arbitrary; there is definitely a designation in planning theory that it is a distance of a neighborhood. When we started with this idea we looked at blocks and streets and it just did not make as much sense as the quarter mile.

Mr. Way said with the charitable and benevolent uses it is limited to just across the street; is there a reason why this was not just limited to that as well.

Mr. Fletcher said we wanted to create more flexibility.

Mr. Way said the boundary for this is somewhat contiguous with the Urban Development Area (UDA) downtown. What is going to be the future of the UDA? Will it be revisited and will there be revisions?

Mr. Fletcher said that would actually be a good question for Planning Commission because it is really up to this body and the Community to tell us what they want that to be. It is a question for the Comprehensive Plan (CP) review.

Mr. Way said I just worried that this might put a little pressure and growth on the UDA area, and are we okay with that?

Mr. Fletcher said the UDA terminology was definitely designed more for counties than it was for us as a city; our densities already meet, and surpass, the minimum requirements of a UDA. What we did with our UDAs, if you recall from the last CP review, is that we designated three UDAs and demonstrated that each one could independently sustain the growth, commercially and residentially, over the next 20 years. We went beyond the call of what was required with the UDA designation. Actually, the state no longer requires localities to designate UDAs.

Mr. Baugh said the Rockingham County just recently amended their area and expanded it greatly. The driving force for that was due to revised state funding mechanisms for roads; which do not apply to us because we do not get a funding through the state.

Mr. Fletcher said what Mr. Baugh is referring to is House Bill 2. If you follow state legislation it is specifically associated with developments that are meeting certain criteria that also fall within the UDA, you get higher scoring for your funding. There has also been discussion about whether or not we want to amend our UDA before the CP review; we have had positive input regarding our applications for House Bill 2 funding.

Mr. Way said is there any danger that this may entrench a lot of the parking in the surface lots that currently exist and perhaps preclude potential for infill development within the outlined area. People may get into these arrangements of having this shared parking use of a period of ten years and it would keep some of the surface lots that we may not really want.

Mr. Fletcher said there could be some pressure to keep them because people are making money off of the parking lot; that is just going to be part of its nature. Remember, if someone wants to build a parking lot in the downtown B-1 zoning, they have to obtain a special use permit for it. I have a hard time believing that people are going to build a new parking lot specifically to use for this situation.

With the shared parking arrangement, the use that is in need of the parking has to go find the parking and create the shared parking agreement; it is not a free for all with parking. There is still some responsibility on the part of the applicant needing the parking. Some businesses do not want to have the parking located off site. For the situation that triggered the evaluation for this amendment, it is going to work out quite well for them because they will go across the street where there is an abundance of parking that is not in use.

Chair Fitzgerald said to the extent that it really is within one quarter mile and it is unused, like in this situation, we get a lot of extra efficiencies by passing this; but, there is not enough of a monetary incentive to provoke people to put in parking lots just to make money.

Mr. Way said it is not just the incentive to create the parking lot, but the idea of not converting the existing parking lot into an infill building. I just want to make certain there are not unintended consequences from this proposal.

Mr. Fletcher said when you actually breakdown the opportunity of people who will have to take advantage of it within the boundary, it is a small percentage. This ability gives them the option to not provide any parking on their site. For example, the You Made It art facility SUP on Paul Street that was approved by this body last year, that property has a beautiful landscaped yard, where some of it will have to be converted to parking. This proposed amendment could offer some relief for business or professional office uses that want to locate on properties that have beautiful green spaces, where they can meet the minimum parking requirement without having to remove the well-kept yard.

Mr. Way said the bigger question is parking minimums – is that another thing that needs to be looked at.

Mr. Colman said I have questions related to the time frame of the parking agreement. Ten years, is that tied to the property or to the business?

Mr. Fletcher said it is tied to the use. For example, 37 Paul Street, zoned R-3, it has enough lot area to be used as a single-family home or as a professional office.

Mr. Colman said given that, what happens when it is a professional office for five years with the parking accommodated off-site and then it changes to a multi-family use – what happens with the ten year off-site parking agreement?

Mrs. Banks replied a change of use such as that would come through zoning for permit approval and would have to provide for parking.

Mr. Fletcher said when you are entering into the agreement it is a legal document that is recorded at the courthouse and copied to our office. When someone wants to change the agreement, it is a civil matter between the property owners. I hate to use the phrase “it will work out” but, if they do not work it out it will become a zoning violation.

Mrs. Banks said the shared parking agreements can be tailored to the specific uses and if one of the uses is no longer there, it becomes void.

Mr. Fletcher said the shared parking arrangements we have on file right now are very specific. Some even go as far as to say where you can park within the parking lot.

Mr. Colman said I would like for us to discuss the parking minimums at some point. Also, can public parking be used for shared agreements?

Mr. Fletcher replied no, public parking cannot be used to meet the minimum required parking.

Mr. Heatwole said this type of thing is used in larger cities. You have parking arrangements for businesses, because you have to share space in order to meet the needs.

Chair Fitzgerald said this amendment is formalizing that type of arrangement.

Mr. Fletcher said there are other properties that could utilize the proposed parking accommodation than just R-3 properties. Within the proposed boundary there are small parcels zoned B-2, where business and professional office use is allowed by right. Some might argue these parcels could rezone to the B-1 district and then there would be no issue; however, we do not necessarily want to rezone all of these parcels to B-1 and then have the City absorb the parking demands.

Mr. Da'Mes said in terms of the border itself, for instance Mason Street, does that include both sides of Mason Street?

Mr. Fletcher replied it does not, the description reads "within the boundary." The parking can reach out beyond the boundary, but the use must be within it.

Mr. Colman said why does the boundary stay along Mason Street and not reach out along Broad Street.

Mr. Fletcher said we looked at the long term plan of what those particular areas were. When you look at Broad Street we questioned if there is enough argument to be made for it to be commercial; if there was a good argument, then we need to look at rezoning those areas to the B-1 district. We considered extending it northward; but Gay Street made the most sense.

I did have one person contact me, asking to extend this boundary to their property. I informed them that they could certainly come and ask. I also said that staff would likely not look at extending the boundary favorably, which was a certain distance into Newman Avenue, because those parcels are designated as Mixed Use Development Areas by the CP; thus if they really want the flexibility, they could rezone to the B-1 district.

Mr. Way said this boundary does not trump the land use guide in terms of rezoning requests and things like that.

Mr. Fletcher said this is somewhat like an overlay, it does nothing but provide a benefit. It does not undercut the underlying zoning or the land use guide.

Mr. Colman said I think this is a great idea. I assume that staff did look at opportunity areas with this. My concern is that I do not want to alienate any properties with this.

Chair Fitzgerald asked if there were further questions for staff. Hearing none, she opened the public hearing and asked if there was anyone desiring to speak regarding the ordinance amendment. Hearing none, she closed the public hearing and asked if there was any further discussion or a motion.

Mr. Way moved to recommend approval of the zoning ordinance amendment as presented.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a roll call vote on the motion.

All voted in favor (7-0) of the motion to recommend approval of the Zoning Ordinance amendment.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said proactive zoning is still on hiatus because we are still one person down within our division. We are just about to begin interviews for that position. Also, no one has signed up for the November 3rd Rockingham County Planning Commission Meeting.

Mr. Colman volunteered to attend on that date.

Mr. Baugh said City Council took up three matters from this body last night and approved all three. Those items were the rezoning on Lucy Drive/Reservoir Street, the South Avenue special use permit, and the alley closing off East Johnson Street. The alley closing had some vigorous debate because some of the adjoining property owners were present and said they were opposed to the alley closing. Ultimately, it was approved and I believe Mr. Fletcher will be meeting all parties at the site to explain the alley situation to all parties involved.

Other Matters

Chair Fitzgerald said when Planning Commission held the 2232 hearing for the new school on Garbers Church Road, one of the issues that we raised was the fact that Planning Commission was last in line with our review of the location. Everyone had already voted up that location – two different School Boards voted it up, City Council voted it up, etc. Planning Commission felt it would have been nice to have a little more input, a bit earlier in the process. As many of you are aware, the School Board is in the middle of a three month open input process where in October, November, and December they are holding open public input sessions during their meetings and basically asking the public to weigh-in on the three options. In conversations I recently had with the School Board Chair, I asked whether it would be helpful to them if Planning Commission had conversation about the project during one of our upcoming meetings; perhaps December. We will likely have a 2232 hearing on it and get to formally weigh-in on it then, but this allows us to hear about it and talk about it before then. This will allow us to deliver input to the School Board and ask questions. I am not suggesting a formal meeting regarding this. If you think this is a good idea then I would re-contact the School Board Chair and let them know that Planning Commission would like to have a conversation with them during the City wide public input window – most likely in December.

All members of Planning Commission agreed this was a good idea and Chair Fitzgerald should move forward with this.

Mr. Fletcher said at City Council's September 22, 2015 regular meeting, City Council briefly discussed whether the regulations within City Code Section 15-2-24 Fowl, Chicken and other Domestic Birds—commonly referred to as the "chicken ordinance"—should be revisited and

potentially amended. At the end of the discussion, City Council decided to refer this matter to Community Development and Planning Commission for review.

Issues that City Council noted they would like to explore include: whether the lot size threshold should be reduced; if there should be a "neighbor's approval" added to the permit process; to explore whether a certain number of permits should be allowed within an implemented trial period; and other options that might not have been discussed during the 2009 debate on this matter.

Included within your packet are the minutes from the City Council and Planning Commission meetings in 2009, the existing adopted ordinance (adopted in 2009), and the recent minutes from the September 22, 2015 City Council meeting.

Our four bullet points for our conversation tonight are:

- Whether the lot size threshold of 2 acres should be reduced,
- If there should be a "neighbor's approval added to the permit process,
- Whether a certain number of permits should be issued within an implemented trial period
- Any other issues not discussed in 2009

My guess is that we are not "reinventing the wheel" with this, but to take these bullet points and focus on adding these items or not to what is already existing. I have had some suggestions offered to me from a citizen representative, as well, staff has talked internally regarding this and the topics suggested were: lot sizes based upon the minimum square footage as to the district in which chickens would be located (i.e. R-3 would be 6,000 square feet, R-2 would be 7,000…); or, lot sizes having no minimum requirement, but limiting it to the factor of whether setbacks can be met. If you do restrict it to the lot sizes of zoning districts, and just for single-family homes, there are still many parcels which do not meet that requirement. So the theory of no lot sizes is not a bad one. The existing required setbacks are 25-feet from all property lines.

Dr. Dilts asked why the City has this limit on chickens.

Mr. Baugh said until the ordinance was adopted in 2009, there was a blanket prohibition, it simply was not allowed.

Mr. Da'Mes asked what was prohibited, the agricultural use or just chickens in general.

Mrs. Banks said agricultural animals in general.

Dr. Dilts said my point is that we allow other animals that can be more of a disturbance problem than chickens.

Mr. Da'Mes said I think the biggest argument is the poultry industry being such an economic factor in our community and the concern of the avian flu.

Mr. Heatwole said working in the industry it does cause concern, but if they are caged it cannot be spread. I would like to hear from veterinarians regarding this.

Mr. Baugh said the poultry industry will probably oppose this – they take a stance of zero tolerance. If you are going to take a zero tolerance on this issue that makes you a "no" vote on this matter.

Chair Fitzgerald asked does Planning Commission accept the charge from Council to look at this matter again. Is there anyone here that does not want to look at this?

There was a consensus among Planning Commission to look at the Chicken Ordinance.

Chair Fitzgerald asked how Planning Commission wants to approach this.

Mr. Heatwole said I would like to hear from someone with the USDA just to make certain that it would not cause any major issues.

Mr. Way asked if there was a time frame at which this needed to be accomplished.

Mr. Baugh said no, there is no time frame or direction as to when a report back is needed.

Mr. Fletcher said please do not think that staff is in any way an expert on this matter. But as the Commission discusses it we (staff) are going to be more of your resource to answer the "what ifs" and "what does this mean" for implementation. Therefore, we definitely need to know how you are thinking about doing this before we can move forward. I do not want Planning Commission to get lost in what the objective is; I think the ordinance we have is very good, we just need to touch on these (bullet) points.

Mr. Baugh said the ordinance we have really reflects the thinking of the advocates for keeping chickens, except for the lot size.

Chair Fitzgerald said I understand that, but, in order to answer the bullet points I think we need a bit more information. Especially, for those of us who have not previously been involved in this matter.

(Mr. Way left the Planning Commission meeting at this time 8:30 p.m.)

Mr. Fletcher said one thing that staff can get for Planning Commission to look at is the original packet that was reviewed in 2009. What else do you want in the near term?

Dr. Dilts said I think Mr. Heatwole's point is a valid one and we should get some sense of whether the avian outbreak is significant or not.

Mr. Colman asked whether there were any statistics from other areas regarding the risks of keeping birds.

Chair Fitzgerald said if I am hearing everything correctly, we are asking staff to get the 2009 packet information for us and we are hopefully going to have some conversations with different people about coming in to speak to Planning Commission regarding avian flu and the impact on the industry versus domestic chickens.

Mr. Heatwole offered some suggestions as to contacts within the poultry industry that could be contacted.

Mr. Fletcher said what if we cannot get this person to come in and speak with Planning Commission.

Dr. Dilts said we can research other literature, there appears to be plenty out there. We want citizens to know we have looked at it, we understand the risks, and that it looks minimal, (or not).

Mr. Fletcher said staff will definitely get the 2009 packet to Planning Commission next month, we will continue to work to on research; but, I do not want to make promises that cannot be kept for next month. We are very busy within our division right now with employee time allotments.

There was a consensus that the 2009 packet would be enough for the November 11th meeting and Mr. Heatwole would look into getting a name of someone in the industry that could talk with Planning Commission regarding concerns.

Mr. Colman said do not forget that if we are hearing from someone in the industry, we need to have a speaker come to advocate for the movement.

Chair Fitzgerald said we need to be cognizant of the fact that staff is down two persons right now and Council has said there is not a real time pressure with this.

Mr. Fletcher said next month's agenda has five public hearings – three special uses and two rezonings.

Adjournment

Planning Commission adjourned at 9:05 p.m.

Chair Deb Fitzgerald	Secretary, Alison Banks