



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request to amend the Zoning Ordinance's Article G Off-Street Parking regulations Section 10-3-26 Location in Relation to Building or Use Served. The amendment would modify subsection (a) (1) by adding the ability for business and professional office uses to meet minimum off-street parking requirements by locating such spaces on parcels that are not on the same or adjoining parcels from the use served. Such permission will only be allowed within specified downtown locations.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: October 14, 2015.

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 ($\frac{1}{4}$) 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.

Respectfully Submitted,

Alison Banks
Senior Planner