



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street

Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgcommdev.com/>

Telephone: (540) 432-7700 Fax: (540) 432-7777

October 6, 2015

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Miguel Hernandez Aguirre and Maria Perez Rebollar to close 1,610 +/- square feet of an undeveloped public alley located perpendicular to and off of East Johnson Street. The undeveloped alley is 10 feet wide by 161 feet long and is located between tax map parcels 33-C-4 & 5.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: September 9, 2015

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the following land uses are located on and adjacent to the property:

- Site: A 1,610 square foot portion of undeveloped public alley right-of-way adjacent to 33-C-4 and 5, both zoned R-2
- North: Across East Johnson Street, a single family dwelling and a non-conforming apartment building, zoned R-2
- East: Single family dwellings, zoned R-2
- South: Single family dwelling and a duplex, zoned R-2
- West: Single Family dwellings, zoned R-2

The applicants are requesting to close a portion of an undeveloped public alley right-of-way approximately 10-feet in width and 161-feet in length, totaling 1,610 square feet running perpendicular to East Johnson Street. The alley is centered between the middle of two driveway entrances off East Johnson Street; the entrances serve the properties at 135 and 147 East Johnson Street respectively. In order to maneuver through the alley one must drive onto one of the two properties. The applicants residing at 135 East Johnson Street desire to close the alley in order to prevent cut-through traffic on and along their property.

As noted, the alley is undeveloped and therefore not maintained by the City. The area is not used for trash pick-up, there are no public or private utilities within the right-of-way, nor is the alley marked for any potential future trails. However, the alley is located in an area that has some drainage issues and there may be potential to use this alley in the future for stormwater drainage improvements. If the alley is closed, staff recommends an easement be placed across the entire portion for future drainage or stormwater management projects.

The applicant should be aware that if City Council elects to close the alley, they must have a survey prepared in order for the City Attorney to draft the ordinance for closure. The survey should show if

the alley will become part of the applicant's existing parcel, or if the alley will be divided among the adjoining parcels.

Staff recommends closing the alley as long as an easement is reserved giving the City permission to utilize this area for drainage or stormwater management.

Mr. Da'Mes asked if the applicants were to place a storage building or a fence within the easement, and then later the City said we need to put a drainage pipe through the easement, how would that work.

Mrs. Banks said the City has easement language which discusses situations such as you described. For the most part, fences are permitted within an easement; but the owner must understand that the fence may be removed by City forces at some point for access into the easement. An accessory building would not get a building permit approved through the zoning division if it were to be placed within an easement. An accessory building could be placed right up to the easement line, but not within the easement.

Mr. Colman said the easement would probably take the entire ten feet.

Mrs. Banks said yes, the easement would cover the entire alley.

Mr. Fletcher added that the accessory structure may not even be an issue, because if the alley is split right down the middle with the adjoining neighbor, then the setback would be the same as the easement on each parcel – five feet.

Chair Fitzgerald said we are not required to have a public hearing on this matter; but, if the applicant or a representative would like to speak they may do so at this time. Hearing no one, she asked Planning Commission if they had further discussion or a motion.

Dr. Dilts moved to recommend approval of the alley closing as presented.

Mr. Way said I am happy to second the motion; however, I would like for us to keep an eye on the alley closings that are occurring. I think that this particular closing is fine, and it makes sense for the applicant. We are looking at bicycle and pedestrian access tonight as well. One of the principles of a good walking environment is to have some permeable street networks and the idea that people will have multiple routes to get through areas. I am not saying this is a problematic alley closing; but I believe we should keep our eye on some of the ones we have or will be seeing. I do offer a second on the motion to approve.

Chair Fitzgerald said we did talk about that somewhat on the site visit yesterday as well.

Mrs. Banks said we did discuss it. Also, on the "official/unofficial" bicycle and pedestrian alley closing map this alley is noted as okay to close. The alley directly to the east is marked for a future trail.

Mr. Baugh said I am supporting the motion. Many times we get these requests and historically they are somewhat de facto; the alleys have been taken over by the adjoining property owners and nobody actually uses them as their means of access. However, with this issue there is actually some use of the alley.

Dr. Dilts said at some point it would be interesting to talk about the alleys. I have an alley right next to my house that would be a mud-pit if I did not do anything to it; the care of the adjoining alley falls on the people that actually care about the alley. It seems somehow unfair that people use the alley over and over again, all day long, and the reason they can use it, is because someone like me is taking care of it.

Chair Fitzgerald asked if there were any further comments or discussion. Hearing none, she called for a voice vote on the motion to recommend approval as presented.

All voted in favor to recommend approval of closing the undeveloped alley as presented (7-0).

Chair Fitzgerald said this will move forward to City Council on October 13th.

Respectfully submitted,

Alison Banks
Senior Planner