



City of Harrisonburg, Virginia  
Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

August 3, 2018

**TO THE MEMBERS OF CITY COUNCIL  
CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT:** Public hearing to consider a request from H2 Investments, LLC for a special use permit per Section 10-3-48.4 (6) of the Zoning Ordinance to allow multiple family buildings of up to 12 units per building under the conditions set forth under 10-3-48.6 (e) within the R-3, Medium Density Residential District. The 23,348 +/- square foot property is located at 753 Foley Road and is identified as tax map parcel 84-A-9.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING  
HELD ON: July 11, 2018**

Chair Way read the request and asked staff to review.

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

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

Site: Single-family detached dwelling, zoned R-3

North: Undeveloped parcel, zoned R-3

East: Single-family detached dwelling, zoned R-3

South: Across Foley Road, multiple family dwelling units, zoned R-3

West: Multiple family dwellings, zoned R-3

The applicant, H2 Investments, LLC, is requesting a special use permit to allow multiple family dwellings of up to 12 units per building on a 23,378 +/- square feet parcel addressed as 753 Foley Road. (Note: The size of the parcel only allows for a total density of seven units, thus a 12 unit building could not be constructed.) The applicant plans to construct seven townhome-style multiple family (apartment) units. As part of the requirements for obtaining a special use permit to build multiple family units in the R-3 district, an applicant must substantiate that they have met several conditions to justify the development. Those conditions outlined in Section 10-3-48.6 (e) of the Zoning Ordinance consist of the following:

1. existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide, is located adjacent to, across the street from or in close proximity to the proposed development;
2. The applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities: currently serve the site; or are planned to serve the site according to a city or state plan with

reasonable expectation of construction within the timeframe of the need created by the development; or will be provided by the applicant at the time of development; or are not needed because of the circumstances of the proposal.

3. The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.
4. The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site, or the development shall be designed, to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.

The applicant has addressed each condition within the letter attached herein.

The layout submitted by the applicant, titled "Concept Site Plan," illustrates seven townhouse-style multiple-family (apartment) units with 19 parking spaces, including five garage spaces, and landscaping. It is important to understand that the layout is conceptual and could change during the engineering design phase. For example:

- The applicant's conceptual site plan illustrates 19 parking spaces, when only 18 are required by the Zoning Ordinance. Additionally, if the applicant chooses not to provide garages, then the parking lot would be enlarged.
- The evergreen shrub screens shown behind the units adjacent to tax map parcel 84-A-10 and the landscaping illustrated to the north adjacent to tax map parcel 84-A-13 are not required by the Zoning Ordinance.
- Private trash collection is required for this development and must meet the requirements of City Code Section 6-2-38. Collection services may be provided with a dumpster or "curb-side" pickup. If a dumpster is provided, then dumpster screening will be required and will be reviewed by staff when the engineered comprehensive site plan is submitted.

The character of this neighborhood, consisting of properties along Foley Road and Ridgeville Lane, has changed over the past two decades from a neighborhood consisting of only single-family detached dwellings to now include duplexes, townhomes, and multiple-family dwelling units. All but one of the multiple-family dwelling units in this neighborhood were developed by right prior to the effective date of the R-3, Medium Density Residential District regulations in 2010 that required special use permits for multiple-family dwellings of up to 12 units per building. The development known as "Loop Modern" (formerly known during development as "The Angle," identified as tax map number 84-B-20, and located across Foley Road from the subject property) was approved for the special use permit for multiple-family dwellings in 2011. At that time, staff recommended denial of that request; it was then recommended for approval by Planning Commission (4-3), and approved by City Council (3-2). Staff recommended denial of the Loop Modern project believing that the development's design was not "compatible with adjacent existing and planned single family, duplex, and townhouse development" and did not believe that the density of the development was compatible with the surrounding area. With the approval and construction of the Loop Modern development combined with the existence of a few of the other multiple-family dwelling units within this neighborhood, the units proposed within this application are consistent with the surrounding parcels.

While staff would prefer to see this neighborhood redeveloped more cohesively, staff recognizes the difficulty for someone to be able to purchase many of the surrounding parcels and then to implement a master development plan.

Staff recommends approval of the special use permit request to allow multiple-family dwellings on the subject parcel.

Chair Way asked if there were any questions for staff.

Mr. Colman asked about the intent of the project and whether it was for student housing.

Ms. Dang said I could not say and we do not regulate that.

Mr. Colman said part of my question of that comes, because along the way we are trying to provide as much affordable housing as possible and sometimes this is the type of construction will provide that. As much as I agree that more comprehensive planning of that area would be nicer, the reality is that you only have a certain property to work with and that is what they have and it seems to fit what is there. I hope that it is geared towards affordable housing and not student housing.

Mr. Finks said it is a general concern I always have in this area. We have expanded Reservoir Street it can handle a lot more than it could a few years ago; but, with all the development going on in the County I always get nervous whenever we are making denser areas off of Reservoir Street because I feel like there is continued development out in the County that is adding more traffic onto Reservoir Street. Is there any concern going into that direction adding more denser properties, what effects it may have?

Mr. Fletcher said when Reservoir Street was planned for widening, the planning process took into consideration what the long-term plan was for density and what the zoning allows in that area of the City. We had this shown as medium density residential since probably 2004, so it has been known a long time what the density possibilities were for this area.

Chair Way opened the public hearing and asked if the applicant or their representative would like to speak regarding this request.

William Moore, Balzer and Associates, said we provided the engineering consultation for the applicant on this request. I am here to answer any technical questions you all may have.

Chair Way asked if there were any questions for Mr. Moore.

Mr. Finks said it is not a question, but I hope you are able to put in the evergreen shrubs as shown on the layout. I think that would be nice in between the building layout and how close it is to those existing apartments.

Chair Way asked if anyone else would like to speak in favor or against this request. Hearing none, he closed the public hearing and he asked Planning Commission for a motion on the request or for discussion.

Mr. Colman said regarding the landscape screening part of this special use permit, Planning Commission could add additional recommendations to ensure that occurs.

Chair Way asked for clarification as to whether he meant it as a condition.

Mr. Colman said yes as a condition.

Ms. Dang said between Mr. Fletcher, Mrs. Banks, and myself we discussed this and because this site plan is conceptual and they have not designed the site yet, we had concerns that if we conditioned the landscaping screen, then we might corner them into doing something that might not work on this site.

Mrs. Whitten asked whether the open space required.

Ms. Dang said no.

Mr. Fletcher said they must meet 15% landscaping, and it must be within 30 feet of the parking lot. But there is not a specified open space requirement.

Mr. Finnegan said I have a question for Mr. Moore. There is a pretty unique development across the street, I do not know if you are heading in that direction for this design.

Mr. Moore said it is the same applicant.

Mr. Finnegan said okay, thank you. I share Mr. Finks' concern about the traffic on Reservoir Street, but, at the same time, as Mr. Colman was saying, that affordable housing it is needed, this is not the kind of development that we have seen elsewhere on Reservoir Street that is much larger in scale. I feel like this fits the neighborhood and fits the direction it is going.

Mr. Colman asked are you planning on having the stormwater on the north side of the property.

Mr. Moore said one of the main reasons that you will see the open space on the back conceptually, is that we have a storm line that runs through there now. Conceptually, we would possibly look at a low impact development technique for some of the parking area, maybe some underground storage, and then reserve in the back area. It drops substantially in the rear, maybe do a rain garden in the back as well. Again, those are all conceptual to be worked out on the site plan.

Chair Way said I am tempted to vote in opposition to this for various reasons. One of which is because back in 2011 I was part of the Planning Commission and I voted in favor of the Angle, the one there now. I was deeply troubled by that vote when I made it and I had great anxiety about how much this is going to swing the neighborhood; how much it is going to push it the other way. Here is a great example how it has pushed it in that way. Part of me is anxious about losing single-family dwelling opportunities here in the City, specifically where there are some here. In some ways I am not 100% convinced that it has fully gone down the direction that we are talking about here and so is this the last attempt to try and hold things back a bit and maintain some of that single-family presence here. I am very comfortable in being a lone voice against this, but I am still on the fence and I feel like this neighborhood is somewhat on the fence. I want us to be thoughtful about, as we mentioned, what is the direction the neighborhood is going. I sit back and think are we comfortable with that or is this a point where we can still have a mix in that neighborhood without going fully in one direction. I get the point about affordable housing as well and the efforts to modify the landscaping. I just wanted to register some of my concerns.

Mr. Baugh said let me jump on that also, as someone who, I am pretty sure, voted against this twice. Somebody who was around when we did the 2004 Comprehensive Plan, in many respects we did a really good job and what I am talking about here was essentially repeated in the 2011 Comprehensive Plan and it is on its way to be repeated in the new one. We expressed lots of concern about pressures to increase density generally in residential areas. I think 14 years back I gave us a good grade for having predicted what was going to happen, I am not sure I would give us a good grade for how we have actually done in dealing with it. It is easy to get distracted from the fact that some things that I think are unique to Harrisonburg, our market and our dynamics, that we have the kind of pressures to always go denser with residential. We are not normal in that regard. That is our cross to bear, it is a burden that it is a responsibility we bear in this community that is not the same everywhere else.

It was a lot of that thinking that caused me to vote no for the one across the road. I will say this as much as I was taking that position here, on the one across the way some years ago, again going back to discussions from when the 2004 Comprehensive Plan was written, it was interesting because my recollection was that you can count on one hand the times that the working group put anything to a vote. That plan was essentially written by consensus as we haggled it and worked it out. But one of the things I had a clear recollection of voting on, and it is interesting to see what it was voted on, did we literally advocate a total moratorium on conversions to higher density, or do we recognize that there would be a certain amount of prudent planning needed and that there are going to be areas where you want to do it. Of course, I was in the group that would have said it was too extreme to make a blanket statement that we are not going to increase density anywhere. That was the question, do you go that way.

It really does raise some interesting issues, but I guess with here, part of the overlay in a way, and going back with the history, is what is this in the Land Use Guide – it is medium density residential. In a weird way, it sort of sounds like we decided a long time ago that this was not one of the areas where we would really fight it that much. I have always had the same concerns about this particular area because it does seem like it is just a matter of time before everybody in the neighborhood comes in to do this and when we say medium density is that really what we want. My experience tells me and certainly affordable housing is an important factor, but in this context, if affordable housing is your primary consideration, you will always vote to increase density.

Mr. Colman said let me answer that. With a property this size the options are very limited to have affordable housing. If we were to reduce for affordable purposes the lot size requirements in certain districts, we would be able to actually have a denser single-family home development compared to here, you cannot do this here. The lot is too small to put single-family homes in and then without a private drive also which is most likely, you would not be allowed to do that. I recognize there are other R-1 and R-2 properties out there that we have to consider where we want a denser, a higher density, but we are going to maintain the neighborhood character. We need to allow for smaller lots that will allow for single-family home building, in this case this is the approach we are taking because it works.

Mr. Fletcher said let me clarify the terminology. When you are saying single-family home development, are you talking about subdivided individual detached home lots?

Mr. Colman said yes.

Mr. Fletcher said it is zoned R-3 and in many respects the shape of this lot is what is restricting.

Mr. Colman said with the lots that are left in a neighborhood like this the depth is there but not the width.

Mr. Finnegan said when you went over that aerial, I am looking at how many houses are there, how many apartment buildings are there, and we took the site tour yesterday and the house that is on that property I would not want to live there. I will make the argument for preserving the neighborhood in some cases, I am not going to make it here, given what it is already on that street. I think in my opinion I side more with Mr. Colman on this, density is not the only factor here, but it is a factor.

Chair Way said I think when we talk about density that is one thing, but through planning practice and good neighborhoods we also emphasize a variety and diversity within those neighborhoods as well. Having mixed type of buildings and that kind of thing. Part of my anxiety here is you can see this as a harbinger, a signal that we should be sporting more multi-family dense sort of uses, or you can view this as actually a nice spot where there is a mix of things going on and actually this is a point to protect that mix. All three lend themselves pretty well in the sort of the variety aspect in the mixing of different type of houses in a way that R-1 would not and some denser areas would not either. Part of my rationale is acknowledging that there is pressure here and the existing property may not be deluxe and there may be potential here in different ways. But with this mix, this variety that we see there, you can argue that adding one extra thing is not going to change all that much, but, it is another thing pushing into that direction, and somebody else is going to use that rationale to change more things over. That is just another argument beyond density.

Mr. Baugh said I can echo that thought, because I am not trying to make it sound like I am all on one side of this either. I see the stars, I am not trying to deny the existence of the stars. I am throwing these out largely for context and just trying to make sure we have everything on the table. I think the reality is this type of development was at a time when one of our concerns was that we had too much R-3 and this was one of those neighborhoods that we sort of knew about, then they said it is not all one big land owner, that largely had been developed that it already had this kind of mix going in it. I think in some respects even 14 to 15 years ago there was maybe a decision made of where you were going to try and draw the line and fight it, and it probably was not going to be in this neighborhood. I am optimistic, the point is well taken

that the property owner has some limited options. I think it is also fair to say that if everybody in the neighborhood rezones under this sort of regime then any change we make that allows more flexibility for smaller lot sizes will not matter because it will not take advantage of the old rules.

Chair Way asked if there were any motions or further discussions to the matter.

Mrs. Whitten asked do the kids from this neighborhood go to Stone Springs Elementary. I am just curious, we were talking about this yesterday with regards to another property. This one would be 14 kids maybe, if you figure two per apartment, that is almost a classroom.

Mr. Fletcher said they would attend Stone Spring Elementary.

Mr. Finnegan said this is a question for staff. Do we know how many of the houses on that street are owner occupied?

Ms. Dang said no, I did not do an analysis.

Mrs. Fitzgerald moved to approve the special use permit at 753 Foley Road (Section 10-3-48.4 (6) to Allow Multiple Family Dwellings Up to 12 Units Per Building) as presented.

Mr. Colman seconded the motion.

Chair Way called for a roll call vote.

Mr. Baugh said I want to go ahead and say before we take the vote, and as the person who will get to vote on this again, I see things both ways on this. I believe I will be joining you Chair Way in a no vote. But, I will carry forward to Council that there was a spirited discussion that covered a lot of angles on this and that if the majority sentiment is what I think it is going to be, I will certainly reflect that to Council.

Chair Way: No

Commissioner Colman: Yes

Commissioner Whitten: Yes

Commissioner Fitzgerald: Yes

Commissioner Baugh: No

Commissioner Finks: Yes

Commissioner Finnegan: Yes

Chair Way said the final vote is five to two (5-2) to approve the special use permit at 753 Foley Road (Section 10-3-48.4 (6) to Allow Multiple Family Dwellings Up to 12 Units Per Building) as presented.

Chair Way said this will move forward to City Council on August 14, 2018.

Respectfully Submitted,

*Alison Banks*

Alison Banks

Senior Planner