



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 multiple sections of the Zoning Ordinance to allow public uses to deviate from requirements of the Zoning Ordinance by approval of a special use permit. An additional subsection will be added to each zoning district's list of available special use permits to allow public uses to apply to deviate from zoning regulations. The sections of the Zoning Ordinance that would be amended include: 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, 10-3-63, 10-3-71, 10-3-79, 10-3-85, 10-3-91, 10-3-97, and 10-3-180.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: August 13, 2014.

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said Staff is proposing an amendment to several sections of the Zoning Ordinance in order to allow public uses to better conform to zoning regulations. A public use is defined as *"Any instance where a lot or parcel of land, or any improvement on a lot or parcel of land, is used by (1) the City, or (2) another governmental entity having a contractual relationship with the City for the use of such lot or parcel or improvement."*

In the City's recent history, we have relied on the fact that the City is not legally obliged to follow its own zoning regulations. However, recent discussion on 2232 review has led staff to the conclusion that it is best for the City to follow zoning requirements.

Public uses are permitted by right within all zoning districts; however, there are times when, in the best interest of providing services, the City cannot adhere to all the requirements of the Zoning Ordinance (i.e. height restrictions, minimum building setback requirements, parking regulations, etc.). The Zoning Ordinance provides a variance procedure through the Board of Zoning Appeals (BZA) public hearing process to allow for relief from yard and lot area requirements, if the property owner can prove a hardship. A BZA variance, however, does not give relief from all requirements of the Zoning Ordinance, such as parking or landscaping regulations.

Staff is proposing the language *"Public Uses which deviate from the requirements of Title 10, Chapter 3"* be added as a subsection to the special uses within the following zoning districts offering public uses the opportunity to request deviating from zoning regulations: R-1, R-2, R-3 (Multiple Dwelling), R-3 (Medium Density), R-4, R-5, R-6, R-7, MX-U, MH-1, MH-2, B-1A, B-1, B-2, M-1, and U-R.

The special use permit would provide for a documented, public hearing process to allow public uses, which may not meet all the requirements of the Zoning Ordinance, to occur and still be in compliance.

Staff recommends approving this amendment to allow public uses to deviate from the requirements of the Zoning Ordinance by approval of a SUP.

Chair Fitzgerald said if Planning Commission were to turn down or recommend denial of a special use permit, the process would then be the same as if it were recommended for approval.

Mrs. Banks replied yes.

Chair Fitzgerald said this provides us with the opportunity for a conversation as to why a particular aspect of the Zoning Ordinance is not being followed. She then asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if there was anyone who wished to speak on the proposal. Hearing none, she closed the public hearing and asked Planning Commission for comments or a motion.

Mr. Colman moved to recommend approval of the amendment to allow public uses to deviate from requirements of the Zoning Ordinance by approval of a special use permit within all the listed sections.

Mr. Da'Mes seconded the motion.

Mr. Baugh said we had the benefit of talking about this rather informally at the end of last month's meeting. I might just add something, just so that we can get this into the minutes in some formal manner. I know specifically that as staff looked into this one of the things they came across was that a number of the other jurisdictions contacted already had something in place just like this. This issue came up a Council last night and I do expect some inquiries from Council, more in the nature of why is this issue coming up now. We somewhat glossed over that here tonight; but, I think there are some pieces we need to go ahead and get into the minutes now so that Council members will have the benefit of that when reviewing this proposal.

Chair Fitzgerald said we did discuss this somewhat while we were on the Planning Commission tour on Monday. I think it would possibly be useful to get it into the minutes.

Mrs. Turner said we spoke with Charlottesville, Albemarle County, Winchester, and Roanoke; all required their public uses to comply with their zoning regulations. They cannot say that there is not a time that they have not missed a setback or a parking requirement; but they are required to comply.

Mr. Baugh said these are good examples of jurisdictions we tend to look at as peers.

Dr. Dilts said I was not here for the conversation last month, but it seems to me if we think that the regulations are appropriate, then they are appropriate for all. Therefore, I think this is a very good thing to do.

Mrs. Turner said as Mr. Baugh was saying, there have been times over the years that there has been a decision that public uses should comply; yet it has always been recognized that they did not have to comply. There have also been times when it has not been emphasized that the City needs to comply; the idea that we did not have to comply was enough and we did not have to go through any special process to not comply.

Mr. Colman said I believe it is a good opportunity for the City to lead by example. At the same time it gives an avenue for the citizens to have input on whatever the request may be.

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

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

Chair Fitzgerald said this will move forward to Council on September 9th.

Respectfully Submitted,

Alison Banks
Planner