



City of Harrisonburg, Virginia

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July 1, 2016

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT:

Public hearing to consider a request from Trustees BPO Elks 450 to rezone three parcels totaling approximately 2.31 +/- acres from R-3, Medium Density Residential District to B-2C, General Business District Conditional. The properties are addressed as 482 South Main Street and 50 Paul Street and are identified as tax map parcels 26-O-1, 20, & 21.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 8, 2016

Chair Fitzgerald read the request and asked staff for a review.

Mr. Baugh said before we get started, I need to recuse myself from this request. Mr. Baugh then left the Council Chambers (8:18 p.m.).

Mr. Fletcher said the Comprehensive Plan designates the properties as Professional and Neighborhood Residential. The Professional designation states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas. The Neighborhood Residential designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots.

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

Site: Harrisonburg Elks Lodge No. 450, zoned R-3

North: Union Bank, zoned B-2C

East: Campbell Court, which is a multi-family housing complex, zoned R-3

South: Single family detached dwellings located along Paul Street and South Main Street, zoned predominately U-R/R-P (one property is zoned R-3)

West: Across Paul Street, a single family detached dwelling, a professional office, and a multi-family structure, all zoned R-3, and across South Main Street, Lindsey Funeral Home, zoned R-3

The property owner is requesting to rezone three parcels totaling 2.31 +/- acres of property from R-3, Medium Density Residential District to B-2C, General Business District Conditional. The largest of the three properties, tax map parcel 26-O-1 located on the corner of South Main Street and Paul Street, includes 1.59 acres; the middle lot, tax map parcel 26-O-21, which has about 91 feet of frontage along Paul Street, is a 0.36-acre tract; and then, the third lot, tax map parcel 26-O-20, which has about 58 feet of frontage along Paul Street, is also a 0.36-acre tract.

The reasoning behind the requested rezoning began when the property owners were gearing up to allow a restaurant on the property. As staff learned of their planned use, we informed them that such a use was not permitted. Although the existing structure has an existing commercial kitchen, the kitchen space has operated as a restaurant only for members of the Elks club, which is permitted under the R-3 district. A restaurant that is open to the general public is only allowed by right mainly on property zoned B-1 or B-2.

Currently, under the R-3, Medium Density Residential District, the subject site's lot area could allow up to 16 single family homes, 12 duplexes (24 units), or 50 townhomes, or any permissible combination of the foregoing stated units. Through approval of a special use permit, the site could also contain a maximum of 33 multi-family units. Any residential unit has the ability to be occupied by a single family or four occupants. The R-3 district also permits, by right, other uses and non-residential uses including: college and university buildings and functions, which are either owned or leased by such institutions, and which may include fraternities and sororities; hospitals, convalescent or nursing homes, funeral homes, and medical offices; professional offices, which includes offices limited to personal services customarily performed by professionals such as doctors, dentists, architects, engineers, lawyers, accountants, real estate agents, and insurance agents and brokers; charitable or benevolent institutions; places of worship; public and private schools; governmental uses and community centers; child and adult day cares; private clubs and golf courses; cemeteries; public uses; and accessory buildings and uses.

Often, a rezoning that changes a property's zoning from a residential district to a business district would increase the intensity of the permissible uses. However, if the rezoning request with the submitted proffers is approved, the allowable uses under the B-2 district would be quite limited and less intensive than the current R-3 district allows. The applicant has proffered the following:

- The following B-2 uses would be permissible on the site:
 - i. Restaurants contained within the existing structure in the two rooms shown on the provided drawing as "Dining," and the area shown as "Kitchen," specifically not including drive through food service.
 - ii. Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
 - iii. Accessory buildings and uses customarily incidental to any of the above listed uses.
 - iv. Public uses.
 - v. Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by article CC.
- The property owner could apply for any special use permit allowed in the B-2 district.
- All freestanding signs shall be no taller than 10 feet in height, no freestanding sign shall be larger than 100 square feet in area, and any signage may not be LED or contain scrolling message boards.

If approved, the submitted proffers significantly limit the permissible B-2 uses. Aside from being able to use the existing building, where the submitted drawing indicates as "dining" and "kitchen" for a

restaurant that is open to the public as well as for the ability to have concealed wireless telecommunication facilities at the property, the proffers essentially would only allow charitable, religious, educational, and benevolent institutional uses as well as public uses, which the site can already operate under the existing R-3 zoning district. To be clear, limiting the restaurant use to within the existing structure and only within the areas as indicated means that no outside dining may occur on the site that is associated with the public restaurant. Outside dining may occur, however, for events associated with the Elks club and for any events held by individuals or groups that rent the Elks club facility as is permitted. Furthermore, it should be understood that if the existing building is demolished or somehow altered, where the spaces identified as “dining” and “kitchen” as shown on the submitted drawings, no longer exist, then a restaurant open to the public would not be permitted on site; only the uses identified in roman numerals “ii – v” as shown above would be permitted by right.

With regard to the proffer associated with signage, the 100 square feet limitation for freestanding signs is equal to the limitation that is permitted for B-1 properties. Typically, B-2 zoned properties, if they have enough sign area allotted to the site, can have freestanding signs as large as 240 square feet in area. Specifically for the site, the property would only have about 131 square feet of sign area available for use as the property’s street frontage along South Main Street is about 131 feet in length. Since the site is near residentially zoned properties, as is the case today under the existing R-3 zoning, any use that operates on site would be limited as to the locations of particular advertising. Staff explained to the applicant that, as is currently regulated within the Sign Ordinance, wall signs (which are signs mounted on the exterior of the building) shall not be placed on side or rear walls of the building that abut and that are within 100 feet of a residential district. It may be that advertising wall signs would only be permitted that display toward South Main Street.

The applicant should be aware that, if approved, the existing building could become non-conforming to setback regulations. This is because the B-2 zoning district’s building setback requirements are 30 feet along the front property line, which is typical of most districts, and then 10 feet on both sides and along the rear; however, when a shared line abuts a residential district, the minimum setback then increases to 30 feet. Furthermore, if any structure is to be greater than 35 feet in height, then one additional foot of setback is required for each foot above 35 feet adjacent to shared lines of residentially zoned property.

With regard to off-street parking requirements, like any site, the minimum number of parking spaces shall be provided for all uses. Staff does not believe the existing marked parking spaces, or even the size of the existing parking lot, will be sufficient for the Elks club use as well as for the planned restaurant. The restaurant would be required to provide one parking space for every 100 square feet of gross floor area used by the restaurant (note that this includes the kitchen area, kitchen storage/walk-in freezer areas, dining space, bathrooms, etc., not just the space the applicant has indicated as “dining” and “kitchen”). The Elks club use is required to have one parking space for 10 percent of the building’s maximum occupancy (they would be allowed to remove the portion of the building to be used as the public restaurant from the calculation). As well, staff is aware that five onsite parking spaces are currently being leased to Mather Architects, P.C. at 37 Paul Street for that professional office use to be compliant with off-street parking regulations.

Currently, the site has around 75 – 80 parking spaces delineated (the spaces are not clearly demarcated). It is possible that restriping of the lot could increase the number of parking spaces, but again we caution the property owner to understand that the minimum required parking spaces for all uses will likely be higher than they might be anticipating. If the rezoning is approved, prior to the restaurant opening to the public, the property owners must confirm with the Department of Planning and Community Development that minimum parking requirements for all uses has been met. An architect will likely be needed to determine the maximum occupancy of the building, which will then help determine the minimum number of parking spaces that is needed. Staff will also need a more accurate representation of the square footage of the

space that will be used by the restaurant. (Staff has already suggested to the applicant that they should begin this investigation. If the rezoning application continues on the current schedule, City Council could approve the request on July 12th, the rezoning then becoming official on the evening of July 26th. If the restaurant operator wants to be open to the public as soon as possible, given this timeframe, there should be ample time to figure out the number of needed parking spaces.) If the layout of the existing parking lot does not provide enough parking spaces and restriping the lot does not work to their advantage, then additional parking spaces must somehow be accommodated. This could be accomplished by constructing more onsite parking spaces, which the site should have plenty of area to accommodate, or they could try to establish a shared parking agreement with adjacent properties as is permitted by Section 10-3-26 (a) of the Zoning Ordinance. Staff does not believe it is possible to utilize the reduction in required parking spaces allowed for two or more uses as is permitted by Section 10-3-26 (b), as per the table in the ordinance, both of the planned uses require 100 percent of the minimum parking spaces at many of the same times.

If the property owner does not want to physically construct all of the minimum parking spaces and believes a lesser amount would be sufficient, the applicant would have the ability to apply for a special use permit per Section 10-3-91 (8), which allows for reducing the minimum required parking spaces so long as the amount of space that would have been used for parking remains as open space and is so noted in the deed to the property. If this is a desired option, the earliest a special use permit could be approved by City Council would be August 9th, which means they would have applied by June 7th, which is the day before the public hearing for the rezoning requested herein.

Given the limitations of the uses that could operate on the subject site per the submitted proffers, a traffic impact analysis was not required for the rezoning application. Regardless, staff was still very concerned about traffic and the impacts it could have on the surrounding neighborhood. Much of staff's traffic concerns revolved around the distribution of traffic through the Old Town neighborhood as this matter is already a concern since the Old Town neighborhood is enrolled in a City Traffic Calming Program. After much discussion, from a traffic perspective, staff believes the neighborhood will benefit from the site having eliminated the allowable R-3 uses, which at this time could likely create more negative impacts to the adjacent Old Town neighborhood than any use permitted by the submitted proffers. As noted above, the site's lot area could allow up to 50 townhomes or any permissible combination of residential units, all of which could be occupied by a single family or four occupants and add a significant amount of traffic throughout the Old Town neighborhood.

Neither the existing use or the proposed uses or proposed zoning exactly match the current long term plans for this area. The Comprehensive Plan designates the largest of the three subject parcels as Professional. Properties with public street frontage, and a few internal properties, along South Main Street from Campbell Street southward to Martin Luther King Jr. Way (aside from one parcel that is designated Public/Semi Public) is designated as Professional. This means the long term plan for these properties is to have professional service oriented uses with development consideration to be cohesive to the character of the surrounding area. The Comprehensive Plan further identifies that conversion of houses in these areas to office and professional service uses should be performed with attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas. Although the site is not designated Planned Business, that designation is for areas that could sustain commercial development but need careful controls to ensure compatibility with adjacent land uses and states that the maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment. Issues that are evaluated include: control of access; use of service roads or reverse frontage development; landscaping and buffering; parking; setback; signage; building mass and height; and orientation in regard to aesthetic concerns.

The two smaller parcels that are part of the rezoning request are designated Neighborhood Residential; this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots. The Neighborhood Residential designation matches closely with the R-2 zoning district regulations and should include residential development similar to neighborhoods like Old Town.

It should be known that this is not the first request to rezone a property from R-3 to B-2 within this block of South Main Street. The Joshua Wilton House property at 412 South Main Street was rezoned in 1987 from R-3 to B-2C before being rezoned from B-2C to B-1C in 2015. Then, the Union Bank and Trust property at 440 South Main Street, which is adjacent to the subject site, was rezoned from R-3 to B-2C in 1991 before receiving approval to amend its B-2C proffers in 2011. There is clearly a desired trend from property owners to utilize properties in this area different from the Professional designation, and it does not appear these uses have had a negative impact on this section of South Main Street. Planning Commission might consider evaluating during the upcoming Comprehensive Plan review whether the City should maintain the existing Professional designation for this block and the blocks to the south on this side of South Main Street.

Staff believes the requested rezoning is acceptable given the significant limitations proffered by the applicant.

Staff recommends approving the rezoning request from R-3, Medium Density Residential District to B-2C, General Business District Conditional.

Mr. Joseph Bowman said he is a Trustee for the Elks Club. We have done a lot of work on the club to keep it nice. We have restored the entire front and the inside of the building; it is just beautiful inside now. I am one of the Trustees that desire to keep the building; it has been for sale in the past. I think with this rezoning and restaurant we will not have to worry about putting it up for sale in the future and can protect the building. Thank you.

Mr. Way said I have a question for staff; B-2C, why not B-1 zoning.

Mr. Fletcher replied the applicant did not apply for the B-1 zoning.

Mrs. Whitten asked if it was suggested.

Mr. Fletcher said are you asking whether it was considered or if it was desirable?

Mr. Way asked if it was desirable. I am thinking in terms of the need for all the extra parking, as well as the possible set back issue. With B-1 you do not have the parking or the set back issues.

Mr. Fletcher said it is a bit difficult to answer a hypothetical question given that the applicant requested B-2 zoning.

Mr. Colman asked, can we recommend that B-1 is the better option for them.

Mr. Fletcher replied I do not mean to be curt about this, but it is unusual to answer such questions when the application is for B-2.

Chair Fitzgerald said the big unanswered questions then are how many parking spaces can actually fit in the back of the property when striped in the most efficient way possible and what is the square footage of the building itself.

Mr. Colman asked how many more spaces are you estimating would be needed.

Mr. Fletcher replied honestly, we cannot estimate. That is why we have been trying to paint this picture throughout this entire evaluation process and we continue to emphasize to the applicant that the parking is

an issue. Rezoning it does not get you entirely out of the woods; you must still comply with the parking requirements for the different uses. We run into this situation often, and you may hear us talk about it with certain M-1 properties that apply for a SUP for recreational uses. These fall under the same category for parking requirements and we tell them that before they invest too much into the project they might want to have an engineer or architect determine the maximum occupancy, so that they can understand what the minimum parking requirement would be.

Chair Fitzgerald said there are a couple of options going forward with this, after they figure out what the requirements are. They could re-stripe, add parking, or even change out the size of the restaurant within the building.

Mr. Finks asked for staff to explain again the reasoning for not conducting a traffic impact analysis.

Mr. Fletcher said the question about traffic impact analysis (TIA) will come up for many different reasons – rezonings, subdivisions, special uses sometimes trigger it, and Comprehensive Site Plan reviews. The City’s TIA threshold is more strict than VDOTs. When the vehicle trips in a peak hour are at 100 or more and anytime that a proposed development meets that threshold the City has the ability to require a TIA, it does not mean that they have to do it, it just means that they have hit the threshold where the City has the authority to say “we are concerned about traffic, and you need to do a TIA” to tell us, based upon what the proposed development is, what the remediation abilities could be for the traffic. It does not tell you where entrances need to be located or how big a building could be to reduce the amount of traffic coming to the site. What it does is it evaluates the proposal that is in for review and it tells you how to remediate issues that are generated from the site.

This particular proposal did not meet that threshold.

Mr. Colman asked how is it determined if you do not even know how many parking spaces are needed.

Mr. Fletcher said it is based upon the use not the number of needed parking spaces.

Mr. Colman said that is what I am saying there is not a determined restaurant size yet. So are you implying that just the restaurant use, any size, plus the charitable use was determined to not meet a threshold?

Mr. Fletcher said I emphasized that it was not triggered, what I should be saying is that the Department of Public Works did not believe it was necessary to do a TIA based upon the type of restaurant that is proposed for the site.

Chair Fitzgerald opened the public hearing and said the applicant has already come forward to speak; is there anyone else desiring to speak with regard to this request? Hearing none, she closed the public hearing and asked if there was a motion.

Mr. Colman moved to recommend approval of the rezoning request for 482 South Main Street, from R-3 to B-2C with the conditions as presented by staff.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this item will go to City Council on July 12th.

Mr. Baugh returned to the Council Chambers at this time (8:51 p.m.)

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner