



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Eric Campbell, City Manager  
From: Adam Fletcher, Director – Department of Planning and Community Development and Harrisonburg Planning Commission  
Date: October 22, 2019 (Regular Meeting)

Re: CORRECTION TO STAFF REPORT regarding four requests (one rezoning and three SUPs) from Kathy Hite with representative Madison Lucy Realty, LLC to construct a mixed use development containing non-residential and residential uses.

### **Summary:**

The applicant is proposing to rezone two parcels totaling 6.6 +/- acres from R-3 to R-5C. Along with the rezoning request, the applicant is requesting approval of three SUPs. The first is to allow multi-family dwellings of more than 12 units per building, the second is to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height, and the third is to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices on the site.

### **Background:**

On October 8, 2019, City Council held public hearings on the four items, where staff presented the staff report and the public was provided the opportunity to speak on the proposals. City Council then tabled the requests to be reviewed again on October 22, 2019.

Immediately following the meeting, staff realized there was an error in our evaluation and in the staff report. On page 6 of the staff report the following was stated:

“As indicated by the ZO, the SUPs to allow multi-family dwellings of more than 12 units per building and to allow multi-family buildings greater than 4 stories and/or 52 feet in height may be approved so long as City Council determines that certain conditions as specified within Section 10-3-55.6 (e) are met. Staff believes such conditions are met as (1) there is existing multi-family development in close proximity and multi-family development can be supported by the Land Use Guide at this location; (2) adequate vehicular, transit, pedestrian, and bicycle facilities currently serve the site along Reservoir Street and the applicant will be required to provide sidewalks along their frontage at Foley Road at the time of development; (3) compatibility with existing single-family, duplex, and townhouse development is achieved with the proffers that restrict buildings from being located within 100 ft. of the Woodland Subdivision and massing the building closer to the street with the proffer that prohibits parking lots and drive aisles between Reservoir Street and

the closest building to Reservoir Street; and (4) **there are no steep slopes on the site**, and, like all developments, the site must comply with stormwater management regulations, which are addressed during the engineered comprehensive site plan process” (emphasis added).

The error is that staff indicated in the staff report and presented that there are no steep slopes on the property, when in fact after checking, there are portions of the property that have slopes that are considered “steep” by the Zoning Ordinance. The Zoning Ordinance defines steep slopes as:

“*Steep slopes*: Natural slopes prior to land disturbance or construction that exceed fifteen (15) percent (0.15). Such slopes are measured as the rise in elevation over the horizontal distance between contour lines on a topographic map with a contour interval of five (5) feet or less.”

**Key Issues:**

Within the R-5 zoning district, the Zoning Ordinance per Section 10-3-55.6 (e) states:

“Multiple-family development special use permits may be approved if the following conditions as determined by city council are met.”

There are then four conditions listed. As indicated above, staff believed, and continues to believe, the first three conditions are met. The fourth condition, however, is a bit more complicated now bringing to light that there are steep slopes on the site.

Specifically, the fourth condition states that City Council may approve SUPs to allow multi-family dwellings of more than 12 units per building and to allow multi-family buildings greater than four stories and/or 52 feet in height so long as:

“[t]he 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.”

Although staff did not measure every angled section of the property, there are portions of the property that have slopes beyond 15 percent (staff measured a section at 18.6 percent slope). An image showing the subject site’s contours is included with this information.

In now knowing that there are steep slopes on the site, however, the following explains why staff believes the site still has merit to be developed as presented.

- First, it should be understood that the existing R-3 zoning of the site, like most zoning districts, would allow, by right, with approved erosion and sediment control plans and stormwater management plans, for the steep slopes to be re-graded. In other words, it would be possible for the site to be re-graded under the current zoning district, and then an applicant could apply for the same rezoning and SUP requests and there would no longer be natural, steep slopes to consider under this condition. It is likely that 15 percent and greater slopes would be constructed as part of the grading so that the property could transition to adjacent grades.

- Second, when looking at the entire site, the site has rolling topography and, depending upon where the site is measured, has around 2.5 percent slope from the western corner of the property to the other side of the property along Reservoir Street. As indicated, the property does have portions of the property that have steep slopes and, in isolation, when developing the site, there would be substantial impact to the existing steep slopes because to make way for the proposed development, the slopes would likely be re-graded.

The fourth condition listed within Section 10-3-55.6 (e) is complicated to consider given what is known as to how the site could be developed under the existing zoning regulations. Additionally, having the condition is in some ways unusual as there is no established criteria of how it should be evaluated. With rolling topography, when properties are developed, slopes can exceed 15 percent when transitioning the grade to adjacent properties. With the realization that there are steep slopes on the site, and in considering the information within this correction report, staff believes the site still has merit to be developed as presented with regard to the slope matter.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the rezoning and three SUP requests as submitted;
- (b) Recommend approval of the rezoning and three SUP requests with conditions on the SUPs as recommended by staff;
- (c) Recommend approval of the rezoning and one or more of the SUPs with any conditions as deemed necessary; or
- (d) Recommend denial of the rezoning and three SUP requests.

**Community Engagement:**

N/A

**Recommendation:**

The fourth condition listed within Section 10-3-55.6 (e) is complicated to consider given what is known as to how the site could be developed under the existing zoning regulations. Additionally, having the condition is in some ways unusual as there is no established criteria of how it should be evaluated. With rolling topography, when properties are developed, slopes can exceed 15 percent when transitioning the grade to adjacent properties. With the realization that there are steep slopes on the site, and in considering the information within this correction report, staff believes the site still has merit to be developed as presented with regard to the slope matter.

**Attachments:**

1. GIS Map titled Subject Site Showing 2-foot Contours and Steep Slopes (1 page)
2. Approximate Elevation Profile of the Subject Site (Source: <https://www.arcgis.com/apps/Profile/index.html>) (1 page)

**Review:**

Planning Commission recommended (6-0) denial of the rezoning request from R-3 to R-5C.

Planning Commission recommended (6-0) denial of the SUP to allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance.

Planning Commission recommended (6-0) denial of the SUP to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance.

Planning Commission recommended (6-0) to approve the SUP as submitted to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.