



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final Planning Commission

Wednesday, December 13, 2023

6:00 PM

Council Chambers

1. Call To Order

2. Roll Call/Determination of Quorum

Members present: Chair Brent Finnegan; Heja Alsindi; Vice Chair Adriel Byrd; Dr. Donna Armstrong; Richard Baugh; and Vice Mayor Laura Dent. Valerie Washington arrived late.

Also present: Adam Fletcher, Director of Community Development; Thanh Dang, Deputy Director of Community Development; Wesley Russ, Deputy City Attorney; Meg Rupkey, Planner; and Anastasia Auguste, Administrative Specialist/Secretary.

Chair Finnegan called the meeting to order and said that there was a quorum with six members present.

Present 7 - Brent Finnegan, Adriel Byrd, Donna Armstrong, Valerie Washington, Richard Baugh, Vice-Mayor Laura Dent, and Heja Alsindi

3. Approval of Minutes

3.a. Minutes from the November 8, 2023 Planning Commission Meeting

Chair Finnegan asked if there were any corrections, comments or a motion regarding the October 11, 2023 Planning Commission minutes.

Vice Chair Byrd moved to approve the November 8, 2023 Planning Commission meeting minutes.

Commissioner Baugh seconded the motion.

The motion to approve the November 8, 2023 Planning Commission minutes passed (7-0).

A motion was made by Byrd, seconded by Baugh, that this Minutes be approved. The motion carried by a voice vote.

4. New Business - Public Hearings

4.a. Consider a request from Richard Germroth and Alexandra Vilela to rezone 1182 Nelson Drive

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said on June 6, 2023, the applicant submitted a minor subdivision for a boundary line adjustment associated with tax map parcels 83-B-6 and 16 (1182 Nelson Drive) and tax map 83-B-5 (1184 Nelson Drive). The owner of 1184 Nelson Drive unknowingly built a section of their driveway over the property line and onto their neighbor's property. The intent of the minor subdivision was to enlarge tax map parcel 83-B-5 by adjusting the property boundary with tax map 83-B-16 so the driveway did not encroach the property line. However, the proposed subdivision did not comply with the R-1 dimensional lot width regulations, which requires new lots to have 80 feet of lot width. This is because tax map 83-B-16 is currently a nonconforming lot, where its width is 50 feet and the proposed subdivision intended to reduce that width to 37.5 feet measured at the required setback line. Staff cannot approve a subdivision that decreases the lot width of a parcel that is already nonconforming to the required lot width.

While staff proposed other solutions that would have allowed the minor subdivision to proceed, the proposed solutions did not meet the desired outcome of the two parties, thus they chose to move forward with the proposed rezoning.

The applicant is requesting to rezone tax map parcel 83-B-16 and a +/- 7,438-square-foot portion of tax map 83-B-6 from R-1, Single Family Residential District to R-8C, Small Lot Residential District Conditional. The residual +/- 1,062-square foot portion of tax map 83-B-6 would remain zoned R-1 as the intent is to subdivide this parcel by transferring that square footage to the adjacent neighbor's property identified as tax map 83-B-5 so that their driveway would not encroach property boundaries.

By rezoning the identified area to R-8, the aforementioned proposed minor subdivision can be approved because the R-8 district's minimum lot width requirement for single-family detached dwelling lots is only 35-feet.

Proffers

The applicant has offered the following proffers (written verbatim):

- More than one dwelling is prohibited.

Regarding the proffer, in the R-8 district, single-family detached homes and duplexes are allowed by right so long as, among other things, lot area and dimensional requirements are met. The submitted proffer prevents more than a single unit within the R-8-zoned area.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling

units per acre.

With the submitted proffer, use and density conforms with the Low Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the existing R-1 district's occupancy regulations, which allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals while nonowner-occupied dwellings may be occupied by a family plus one individual or a maximum of two individuals.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

Rezoning this property to R-8 will not impact housing because the property currently has one single-family detached dwelling, and the proffer restricts the property to having only one dwelling unit.

Public Schools

Rezoning this property to R-8 with the submitted proffer will not change the estimated student generation for the property.

Recommendation

Staff recommends approval of the request.

Chair Finnegan asked is the driveway moving?

Ms. Rupkey said the driveway would stay in the same location. The property line would move to the other side of the driveway so it would all be on the neighboring property.

Chair Finnegan said the driveway itself is not being relocated?

Ms. Rupkey said correct.

Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Richard Germroth, the applicant, came forward regarding this request. He said my thanks to Adam Fletcher, Thanh Dang and Meghan Rupkey for coming out, well two of them, and putting eyeballs on what we are trying to do. Essentially, if you stand where the line is and put your arm out you are touching 1184's [Nelson Drive] mailbox and looking kind of into about a third of their

house, it is just a kind of funny configuration. So, we thought 12 and a half feet does the job, that would open up the parking area. We have no intentions whatsoever of developing the property and just move to kind of realign things. It goes from 12 and a half feet down to zero as the driveway widens.

Vice Mayor Dent said not exactly a question, but I was amused to see the driveway portion and the house portion are two separate properties.

Mr. Germeroth said yes, to our surprise to be honest with you. We were not at all aware of that but they were at that time. I do not know if they are becoming one property at this point or not. If they stay what they are that is fine as well. What occurs is that when you enter the driveway, you are in the upper left hand corner of the property and when you exit toward the side load garage, you are in the...you go from the upper left corner to the bottom right corner. The driveway just works that way so you can get into the garage.

Vice Mayor Dent said I guess that is a question for staff, does it become one property? Are they merged or are they still two separate zonings?

Ms. Rupkey said it would be for the large lot in the back and the front lot is what the request is for and their proposed subdivision merges the larger lot and the smaller lot into one lot while also giving about 12 and a half feet to the other neighbor.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Baugh said I guess in the course of updating the Zoning Ordinance and the Comprehensive Plan amendments that will be up for us, are we giving any thought to...I mean as we see more of these R-8s and we know why we are seeing the R-8s, the R-8s are not really for why we thought we were creating R-8 it just created some flexibility that we are finding very useful and take advantage of. I recognize that...I know we are going to try to deal with that. I guess my question is maybe more on the lines of are there going to be any limits to conversion of R-1 to R-8? Any thoughts about that?

Mr. Fletcher said I am not sure I understand the question. What do you mean?

Commissioner Baugh said I guess, in theory, if you just look at a zoning map if we approve this, it looks like a spot zoning. Now, we know why we are comfortable with it but I guess are we okay with anybody in town with R-1 property converting to R-8?

Mr. Fletcher said well, that is a huge question, right? Because even in the draft regulations, correct me anyone, I believe our lowest density regulations are much less than what it is today.

Ms. Dang said meaning less than R-1, not less than R-8.

Mr. Fletcher said increased density and lower square footage requirements when you create it. So, the question that is a powerful question really.

Commissioner Baugh said that is why I said we are not going to take it up tonight but stick it in the back of our minds.

Mr. Fletcher said would one be comfortable in saying “every R-1 lot becomes R-8?” I am sure that there are people out there that would not like that idea.

Commissioner Baugh said but even without going that far...

Mr. Fletcher said I am not saying that staff does not like the idea, I am just saying that there could be opinions that they would not like that.

Commissioner Baugh said and I am not really expressing opinion on it. I was wondering if that was something that might be something for us to go through.

Chair Finnegan said I do have a follow up question to Commissioner Baugh’s question which is, have any of these R-8’s actually been R-8 or are they R-8 conditional.

Mr. Fletcher said well, let us pause there for a second. The lots that are on Virginia Avenue are R-8 conditional, those are the Habitat For Humanity ones I believe. You have got to remember that when you do not proactively rezone properties when you create a new zoning district, you actually do not get many un-proffered rezonings. It is the same thing that happened with R-5. I can think of one parcel and it will probably will never be developed at this point; I should never say never. There is a parcel that is R-5 that is off of Hunter’s Road that I think was a straight R-5 property, it is a very unusually shaped property and in fact now JMU might own it. It just does not happen a lot but it can. I would just caution us for making a broad statement about that predicament that you are seeing.

Ms. Dang said I would say maybe what you are recalling are these recent one parcel rezonings from R-1 to something [R-8] have been a conditional rezonings where we are prohibiting additional dwelling units... not always. I am thinking of Clay Street recently, we rezoned that one to allow them to build one additional single-family home, but they have been pretty restrictive, it has not been a straight R-8.

Mr. Fletcher said you are right, R-8 has been used in ways that we did not anticipate, but if we were in a situation where we thought it was causing concern, you would not get a recommendation for approval from us. You also have to remind yourself that if R-8 did not exist, all the things that people have asked for would have been told no. They would not have been able to, like on Northglen and Hearthstone, keep their covered porch. These are things that are low

impact.

Commissioner Baugh said there was one, I want to say East Rock Street, we did over there, was that conditional?

Ms. Dang said East Gay Street?

Commissioner Baugh said was there a condition on that too? That is the one that I am thinking about that seemed like the actual R-8 for what we thought R-8 was going to be.

Ms. Dang said that is correct. I even think Mr. Fletcher’s Virginia Avenue example, I think the proffer might have been related to no entrances close to the intersection not about density or the type of dwellings. I do not think we had a condition on the East Gay Street one.

Commissioner Baugh said it is also the exception that proves the rule here because of the points well taken.

Chair Finnegan said I think there is a distinction between people whose existing properties they want to do something different with versus land where there currently is not a structure or a structure that gets demolished. It does feel like these are different.

Commissioner Baugh said I just thought I would throw that out there for down the road while I was thinking about it.

Chair Finnegan said it is a can of worms and we could put the lid back on it.

Commissioner Baugh said with that, I will move to approve the rezoning as presented.

Vice Mayor Dent seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Baugh, seconded by Vice-Mayor Dent, that this PH-Rezoning be

approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

- 4.b. Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris to amend the Comprehensive Plan’s Land Use Guide map for properties addressed as 640, 650, 660, 670, 680, 690, 700, 710, 730 Keezletown Road.

Please refer to attachment 13 in Legistar for the full minutes extract.

A motion was made by Baugh, seconded by Byrd, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

- 4.c. Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris to rezone 1816, 1820 Country Club Road, 640, 650, 660, 670, 680, 690, 700, 710, 730 Keezletown Road

Vice Chair Byrd said I would like to make a motion to approve the request for the rezoning.

Commissioner Baugh seconded the motion as presented by staff.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Byrd, seconded by Baugh, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

- 4.d. Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing

LLC, and Brenda G. Castello & Ted A. Morris for a special use permit to allow attached townhomes of not more than eight (8) units at 1816, 1820 Country Club Road, 640, 650, 660, 670, 680, 690, 700, 710 & 730 Keezletown Road

Vice Chair Byrd said I would like to make a motion to approve the request of the special use permit with the condition as listed.

Commissioner Baugh seconded the motion.

Vice Mayor Dent said I am glad to see 24 months instead of 36. I mean, I wish it could happen in a year, but we have seen them push it out and I am glad to have that middle ground at least.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the special use permit passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Byrd, seconded by Baugh, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

4.e. Consider a request from 865 East LLC to amend Section 10-3-91 (9) of the Zoning Ordinance’s B-2, General Business District regulations

Chair Finnegan read the request and asked staff to review.

Ms. Dang said presently, a B-2 zoned property’s side and rear yard setbacks are different depending upon the zoning district of adjacent parcels. Section 10-3-92, Area and dimensional regulations within the B-2 district requires a 10-foot side and rear yard setback when the adjacent parcels are not zoned residentially. However, when a B-2 property abuts a residential district, the side and rear yard setback increases to 30 feet and when structures on the B-2 property are taller than 35 feet, an additional foot of setback is required for each foot above 35 feet. Section 10-3-91 (9) presently allows, by special use permit, a B-2 property to reduce the required side yard setback up to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1.

The applicant is requesting to amend Section 10-3-91 (9) within the B-2, General Business District to allow by special use permit (SUP) the reduction in required side and/or rear yard setbacks of up to zero feet. The ordinance amendment is associated with separate but simultaneous requests including a rezoning and two SUP applications for the property addressed as 865 Port Republic Road. The specifics of the requested rezoning and SUPs are addressed in a separate staff report. The following is the proposed amendments to Section 10-3-91 (9):

Reduction in the required side and/or rear yard setback up to zero feet ~~along the lot line of an adjoining lot or parcel zoned B-2 or M-1.~~

While this will open the opportunity to both reduce setbacks along the side and rear yards and to reduce setbacks adjoining residentially zoned parcels, staff is comfortable supporting this request because SUPs are evaluated on a case-by-case basis.

Vice Mayor Dent said I am slightly perplexed by the wording “up to zero” meaning that it can be less than zero? I cannot quite wrap my brain around it.

Mr. Fletcher said you mean down to zero.

Vice Mayor Dent said I cannot quite figure out what the wording is but that just strikes me as really strange.

Chair Finnegan said Mr. Russ is that standard language, “up to zero” meaning down to? The only reason I am asking is because we are amending the Zoning Ordinance. I just want to make sure that if there is a legal challenge or something, is the word up an issue or is that reasonably understood by courts to mean what we think it means?

Vice Mayor Dent said to as little as zero feet is what you are trying to say right?

Chair Finnegan said yeah, but there is certain standard language that is used in the Zoning Ordinance?

Ms. Dang said I hear what you are saying. I am laughing because I did not think of it that way.

Vice Chair Byrd said zero is the smallest it can be.

Mr. Fletcher said in our world when you are talking about setbacks it is sort of like “I want to move my building up to ten feet from the property or up to zero feet” and I think as people speak, you are moving it closer to the public street. You are not moving it back...honestly it does not matter to us, we just want to make sure it is clear.

Ms. Dang said we could remove the word up if you want. In one iteration that we had, “reduction that required side and/or rear yard setback to zero feet.” It was understood the same way and we

have not had issues.

Chair Finnegan said as long as it holds up in the courts if it is ever challenged. As long as attorneys and folks know what it means, it seems like it is not a problem. If that is a problem then we can change it to down to zero.

Vice Mayor Dent said I think I would like something like to as little as zero, to a minimum of zero. Maybe just skip the up entirely because that was the thing that glitched my brain.

Chair Finnegan said do we need the word up?

Mr. Fletcher said yeah, we can eliminate it, but you want to make sure that people do not get confused that it is only zero feet. If you wanted it to be...as Thanh described it is 30 feet or more than 30 based on the height of the building that you would only want it to be 10. It is clear that you can request that.

Vice Mayor Dent said so that is why 'to as little as zero' makes more sense.

Mr. Fletcher said that is where I was headed, "to a minimum of zero."

Vice Mayor Dent said I think allowing for that range is important too, not just to jump to zero.

Chair Finnegan said as long as we understand the spirit of it, I am comfortable with giving staff the flexibility to...we know what we are talking about here, we can wordsmith it.

Vice Chair Byrd said because down to or to a minimum of...the idea is that regular people tend to think of setbacks and you tell them a number and they go "well, I want it reduced." Anything that highlights that would make it easier for anyone else reading it to go "oh, we are going in that direction."

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Todd Rhea, applicant's representative, came forward to speak to the request. He said this revision actually came up in the context of the Peach Grove rezoning that happened back in February of this year. We ended up not having to get to that issue because the topography there pushed the buildings down from a high density student housing community next door. When the City adopted its B-2 special use for multifamily in the B-2 district in February of 2022, where everyone thought of that in context it was going in the middle of a B-2 zoned property that abutted other B-2 zoned property. In fact, sometimes as in the case of these examples it is next to a residential property but we did not want to blanket change to where if you are next to an R-1 or R-2 neighborhood, you can automatically go up to increased heights. That is why the ordinance was suggested in numerous conversations with staff to be on a special use permit basis, sort of a

case-by-case basis, that increases the utility by allowing a special use or multifamily in B-2. But in those cases where you are against a residential district provides some commonsense flexibility.

Chair Finnegan asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Chair Byrd said the gentleman earlier who was talking about being beside a residential area and having to deal with a 30 foot setback, would have been very useful to be here to hear this. As long as staff sets the language in the spirit of what we have already discussed, I would have no issue with this special use permit. I would like to make a motion to approve.

Vice Mayor Dent seconded the motion.

Commissioner Baugh said I was just looking at the pervious one, I think he is M-1, so this would not cover that but might be a reason to think about whether we would do anything similar with M-1 at some point but that is not in front of us so. This would not help him as is.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the Zoning Ordinance amendment passed (7-0). The recommendation will move forward to City Council on January 9, 2024

A motion was made by Byrd, seconded by Vice-Mayor Dent, that this PH-Zoning Ordinance be approved. The motion carried with a recorded roll call vote taken as follows:

4.f. Consider a request from 865 East LLC to rezone 865 Port Republic Road

Please reference attachment 12 for full minutes extract.

This PH-Rezoning was approved.

4.g. Consider a request from 865 East LLC for a special use permit to allow multiple-family and/or mixed use buildings at 865 Port Republic Road

Vice Chair Byrd said I will make a motion to approve the special use permit to allow multifamily and mixed-use buildings in B-2 with the conditions.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the special use permit request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Byrd, seconded by Baugh, that this PH-Special Use Permit be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

4.h. Consider a request from 865 East LLC for a special use permit to allow the reduction in required side and/or rear yard setback at 865 Port Republic Road

Vice Chair Byrd said I would like to make a motion to approve the special use permit with conditions presented by staff.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the special use permit request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

At this point in time, the Commission took a 3-minute recess.

A motion was made by Byrd, seconded by Baugh, that this PH-Special Use Permit be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

4.i. Consider a request from Devon Lane LLC to rezone 716, 720, and 722 Foley Road

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said in December 2021, City Council approved a special use permit (SUP) to allow multiple-family dwellings of up to 12 units per building on property addressed as 716 and 722 Foley Road. The conditions of that SUP include:

1. All newly constructed multiple-family units shall be efficiency, or one- or two-bedroom units.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two-foot-wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.
3. The entrance at Foley Road to serve multiple-family building(s) on the site shall be no greater than 30 feet wide.
4. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

It was understood that to be able to build the multifamily units that were planned, the dividing property line separating 716 and 722 Foley Road had to be vacated so that lot area requirements could be met for the existing single family detached dwellings and the multifamily dwelling units. SUP condition #2 also required the owner to dedicate necessary public street right-of-way and a sidewalk easement prior to the issuance of certificates of occupancy for the allowed for multi-family units.

In May 2022, City Council approved a special use permit to allow for a reduction in parking. The conditions of that SUP include:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multi-family units up to a total of 11 such units, where one parking space per unit may be provided.
2. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

Then in December 2022 the property owner applied for building permits to construct an 11-unit multi-family building. Ultimately, the permits were approved and construction commenced. These units, however, do not yet have certificates of occupancy as the necessary minor subdivision was

just recorded on December 5, 2023. City tax map and geographic information system (GIS) maps will be updated to show the area as one parcel. While those updates are pending, this staff report will describe the property as two parcels.

The applicant is requesting to rezone a +/- 26,000-square foot portion of a +/- 1.06-acre area from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The property is addressed as 716, 720, and 722 Foley Road and is identified as tax map parcels 84-B-15 & 16. The applicant intends to build three, one-bedroom or efficiency units behind the existing building addressed at 716 Foley Road. Although not proffered, the applicant intends to construct these units as three fully accessible ADA units.

Additionally, the applicant is requesting to subdivide the +/- 1.06-acre parcel addressed as 716, 720, and 722 Foley Road (tax map parcels 84-B-15 and 16). The applicant is proposing to subdivide the property to place each single-family detached dwelling on its own lot and to place all multifamily units on one parcel. Additionally, the applicant is requesting a variance to the Subdivision Ordinance to allow the proposed +/- 25,782 square foot multi-family lot to not have public street frontage.

Proffers

If the rezoning is approved, it would supersede and replace the existing R-3 (Medium Density) zoning and associated SUPs.

The applicant has offered the following proffers (written verbatim):

1. Dwelling units on the referenced property shall be one bedroom or efficiency units only.
2. Dwelling units on the referenced property may be occupied by a family or no more than three (3) individuals per unit.

The submitted conceptual site layout is not proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. Proffer #2 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, only one parking space per unit is required by the ZO.

Land Use

The Comprehensive Plan designates this site as Medium Density Residential and states:

These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

While the applicant did not proffer a maximum number of dwellings units, with R-5's minimum

1,800 square foot lot area requirement per multi-family unit, and because they are requesting to rezone +/- 26,000 square feet, the allowable number of units in the R-5 area would be 14, which is what the R-5-zoned area would contain if the applicant built the three planned units. If the rezoning is approved, and if the subdivision is approved, the maximum density of the subject properties could be 18 units. In this case, staff believes such unit types and density would be in conformance with the Land Use Guide.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters. With the approval of the proposed subdivision, the applicant would be providing a 20-foot public sanitary sewer easement.

Subdivision Variances

The proposed subdivision includes a variance request to deviate from the Subdivision Ordinance Section 10-2-42 (c), which requires “[a]ll lots shall front on a public street and no lot shall embrace any portion of a street or alley.” As part of the subdivision, the applicant would provide an appropriate access easement for the parcel that does not have public street frontage.

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has “above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” The study also notes that “policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.”

Public Schools

Harrisonburg City Public Schools does not anticipate the three planned units impacting student generation numbers.

Recommendation

Although staff would typically expect for the applicant to construct street frontage improvements of curb, gutter, and sidewalk, decisions were previously made to forego such improvements at this location. Staff believes the proposed rezoning is conforming with the Comprehensive Plan and speaks to appropriate policies and actions identified by the Comprehensive Housing Assessment and Market Study. With regard to the proposed subdivision, aside from the requested variance, the subdivision would meet all other Subdivision Ordinance requirements. Staff recommends approval of both the rezoning and the plat variance request.

Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Frank Gordon, the applicant representing Devon Lane LLC, came forward to speak to the request. He said I was just thinking to myself that was in the ALICE part of the program now. We do not have a team of 12 or a budget of tens of millions but hopefully we will be able to still do something useful for our community. This application has grown out of a conversation with the Planning Director regarding practical ways of achieving meaningful responses to the Harrisonburg Housing Report. In that report the consultants recommended that zoning changes be made to increase density in type A neighborhoods of which this is one given its location to amenities, sources of employments, healthcare, recreation, etcetera. Also, the housing report recommended an increase in efficiency units due to their inherent affordability and this will provide three additional of those units. I did not hear any talk this evening or recently of any other developers looking to actually build efficiency units, so I hope that even with the small size of this... I think it will make a meaningful contribution to the number of those units available on the market. Also, in initial discussions with stakeholders who have residents who might like to occupy the nearly completed building, as my certificates of occupancy are obtained, it has become clear in my discussions with them that the more accessibility we can provide, the better that will be particularly given the aging of our population which was also mentioned in the housing report. An additional benefit of this is that currently the two single family homes are rented and if the rezoning and subdivision is not approved, then for all practical purposes, they will remain rental houses forever because to buy one you would have to buy both plus the apartment building being on one lot. So, this subdivision would also allow for the possibility of owner occupancy down the road. Houses tend to outlive their builders and this will probably be no exception in my case. As a special note of congratulations to Councilwoman Dent for her recent environmental post appointment, I wanted to just point it out as a brief note and brag on myself for a moment to say that the 716 Foley Road hosts a voluntary rain garden, which this gentleman over here referred to as a microbiome which I thought was also very interesting, which has been in place almost 10 years and was developed with cooperation with the Department of Environmental Quality. I will also say that I was not overwhelmingly impressed by two level two chargers for 140 parking spaces at this giant building and that the 11 unit building here and the three anticipated each unit will have a level three charging and the available electrical infrastructure will support that for everybody there. In the interest of time, I am not going to try to anticipate all possible objections because I trust that I will also be granted the opportunity that the team of 12 were given to respond thoroughly to any objections. If that is in fact the case, then I will wait.

Vice Mayor Dent said as I saw on the site there is a wonderful tree there, are you keeping that?

Mr. Gordon said the current layout for this anticipates that, however, I also will note that is a silver maple with a multi-stem habitus and I have been in consultation with my arborist about whether we would be better in the long term maintaining that tree or substituting it for one with a better structure and they have not given me a final report on that, but I appreciate your interest in that tree.

Chair Finnegan said as Vice Mayor Dent mentioned earlier the CPACE [program], there is also the HCAP program which the City can help reimburse for the planting of trees. So, that is something worth looking into.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Chair Byrd said reviewing the preliminary plat, I see nothing that stands out. Reviewing the rezoning, I have also not seen issues with that.

Chair Finnegan said I have been on this commission for seven years now and we have approved a lot of things, City Council has approved a lot of things, this is one of the few multifamily buildings that has been approved that has gotten built during my time here. There was a lot that has been approved and ground is yet to be broken on many of them. I have a good feeling that if this gets approved that this will get built.

Vice Chair Byrd said Chair that is a good point. I remember when I was very new to the commission, I saw this one. The building that is there now, it just got finished being built just waiting for a Certificate of Occupancy, we were considering if that should even be and I remember approving that. So, to see it built, that is interesting and now to see these other things. Interesting is there is not as much resistance to this as much as the first one. If anyone has nothing else to say then I will make a motion to approve the rezoning.

Vice Mayor Dent seconded the motion.

Commissioner Baugh said I want to note for the record that I have not spoken on this. I do not intend to speak on this. I will, unless Mr. Russ has a better idea, submit to the clerk tomorrow the standard statement. For ethical reasons related to my sense as a member of the Virginia State Bar I am going to recuse myself. I have recused myself and will recuse myself from anything further on items 4i. and 5a.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye
Commissioner Baugh Recused
Vice Chair Byrd Aye
Vice Mayor Dent Aye
Commissioner Alsindi Aye
Commissioner Washington Aye
Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (6-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Byrd, seconded by Vice Mayor Dent, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Byrd, Armstrong, Washington, Vice-Mayor Dent and Alsindi

No: 0

Abstain: 1 - Baugh

5. New Business - Other Items

- 5.a.** Consider a request from Devon Lane LLC to preliminarily subdivide 716, 720, and 722 Foley Road

Vice Chair Byrd said I would like to make a motion to approve the plat variance as submitted.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Recused
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the preliminary plat variance passed (6-0). The recommendation will move forward to City Council on January 9, 2024.

A motion was made by Byrd, seconded by Armstrong, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Byrd, Armstrong, Washington, Vice-Mayor Dent and Alsindi

No: 0

Abstain: 1 - Baugh

6. Unfinished Business

7. Public Comment

None.

8. Report of Secretary & Committees**8.a. Rockingham County Planning Commission Liaison Report**

Commissioner Baugh said they took up an ordinance amendment that essentially was reducing setback height and area requirements for certain accessory buildings. Basically, I think the way it turned out was that 580-square feet, that is where their rules require a foundation. Congratulations, you are in the county and you have a building smaller than that, they have also reduced some of those requirements. They took up briefly under unfinished business another ordinance amendment that has to do with some poultry operations. Poultry Operation what your requirements are for separating everything when you have adjoining parcels. That has gone onto... I think it was officially tabled, but the supervisors are setting up a kind of Blue-Ribbon commission to report back to them specifically on that. They discussed a matter that was tabled that still remained tabled and so having convened at 6:30 they adjourned at 6:45.

Chair Finnegan asked who has January?

Ms. Dang said that is my question for the group I need a volunteer for January.

Chair Finnegan said I should be able to do that. Do we have February?

Ms. Dang said I will present to you all the schedule with this. We can probably do it next week. I will include it with the agenda packet and if you all can take a look at that and we can discuss it next week.

Vice Chair Byrd said I will take February.

8.b. Board of Zoning Appeals Report

Vice Chair Byrd said the BZA did not meet which means good job staff. Good job Planning Commission. Good job City Council.

8.c. City Council Report

Vice Mayor Dent said this is a complicated one because I have three meetings to report on because last month was one of those weird ones where Planning Commission happened to meet before, so I have the two November plus one December. November 14 was a weird one because there were only three of us there because Councilmember Jones and Councilmember Robinson has already gone down to the NLC [National League of Cities] thing so we postponed a few things; the Bluestone Town Center, the Board of Zoning Appeals and Parks and Recreation appointments. We picked them back up November 28. Meanwhile, we approved the thing about Northfield Court. That was the rezoning with half of a duplex. We did not do much else.

Mr. Fletcher said to clarify, the Bluestone Town Center matter on the agenda was not associated

with matters associated with the Planning Commission but had to do with designating it for...

Vice Mayor Dent said as a revitalization area to get a Virginia Housing grant that they had already gotten, I will get to that in a minute. We also appointed Andrew Hirshberger to HEC, reappointed Kevin Coffman to HRHA and postponed the other two appointments. Again, the Bluestone Town Center went through, again that was just declaring it a revitalization area. That was an interesting discussion because typically a revitalization area is declared when an area is in blight. Well, it is not blight because it is an open field, so they had to make the case that it is for the economic development of the City, we need housing, so we need this, so that went through. From the public hearing the thing that would not die, the short-term rentals, we postponed to early spring because Councilmember Fleming and I went to the report from the CSPDC [Central Shenandoah Planning District Commission], a follow up to the housing study that is focusing particularly on short term rentals, but they had gotten to everybody but Harrisonburg for whatever reason. So, we wanted to get their data about short term rentals for us in particular before voting on that thing. Stay tuned and come back. Yes, we designated Bluestone as the revitalization area as I said. The HRHA bonds for the senior living facility that we have improved down on Mosby, we passed. HRHA can issue bonds on its own but the City Council has to approve it even for other jurisdictions like Alexandria. This was the biggest news, we announced buying the big chunk of real estate to put up the new fire station on Mount Clinton Pike right by Virginia Avenue. That was a big celebration. Matthew Phillippi was reappointed to the Board of Zoning Appeals, that is one of the ones we postponed. Last night, from Planning Commission we approved the one on Clay Street, rezoning. We approved the one on Northglen Lane. Now the strange one was the recovery residence. That one hit a snag when several council members were really concerned about the inclusion of children because what would that do to children being in an environment that is recovery based, long discussion. Short version is we wanted more information from best practices or experience with it. Oxford House has lots of these recovery houses. Some of them designated for families with children or single gender or what, how do they deal with the children? They really objected to the amendment that staff made since Planning Commission instead of just individuals calling it adults and any number of children, that just raised a major red flag. Big financial report we got. Big news on the ARPA housing development fund, the 2 million that we had set aside got awarded a \$700,000 grant to Suter Street with a collaboration with Habitat there, an interest only loan. I was curious how that works, I think it is massively deferred or something. For Commerce Village II, that is \$1.3 million. That was good to have that come full circle because that was one of the things we were discussing at the beginning of ARPA. Changed some of the permit parking in Old Town to take away the permit on one side of the street on Franklin. Where by now all the buildings on that side of that block are business. Council vision, taxes. Now, things got sort of excited at the boards and commissions. We reappointed Kyle Lawrence for the Transportation Safety Advisory. Then for Planning Commission, it was the four of your reappointments. There was some discussion on do we always want to keep reappointing the same people, what about new people? It seemed like it might have been about to derail. All of these are strong people, I am going to move to reappoint them one by one, so you are still here.

Commissioner Baugh said over the next three years they get to appoint an average or less

than...one year they would not have anybody probably, they had just gotten bunched, that is all.

Chair Finnegan said I am glad to hear that because this came up in the CIP that the Fire Department was looking for a new fire station. I did have a concern about it going on the west side of 42 on Mount Clinton Pike. I am glad it is going on the east side; it is more industrial. It is that big field with the big security fence around it for no apparent reason.

Vice Mayor Dent said yeah, it is right next to next to Valley Imports. I raised a question of wait a minute it is by a railroad track and the City Manager said yeah but Fire Station 1 is by two railroad tracks.

9. Other Matters

9.a. Review Summary of next month's applications

Ms. Dang said a reminder that we are meeting next week on December 19 on a Tuesday at 6 o'clock here. We expect that there will be five items on the agenda for three different sites. So, Bluestone Town Center preliminary plat and then Cobblers Valley rezoning and special use permit and Zyphr Hill rezoning and special use permit.

Mr. Fletcher said if I could just add to as I have been doing for the past couple of years for the CIP [Capital Improvement Program] review is to give you ahead of time just the packet of projects so you can begin to review them. Just today I was speaking with a department that I am still awaiting some information on. I hope they can get me what I need by Friday. I hope to be able to provide you the projects only next Tuesday as well. Would you like hard copies or would you like it a digital format?

Ms. Dang said moving on to the January Planning Commission meeting, we have three items on the agenda for two different sites and so we recommend having one meeting. If Commissioner Alsindi is up for it January 10 could be a good time for him to do the presentation you offered that we discussed last meeting.

The board agreed to have one meeting for January.

10. Adjournment

The meeting adjourned at 9:02pm

NOTE TO THE PUBLIC

Staff will be available at 4:00 p.m. on the Tuesday, December 12, 2023 those interested in going on a field trip to view the sites on the December 13, 2023 and December 19, 2023 Planning Commission Agendas.

Staff will be available at 4:00 p.m. on Tuesday, January 9, 2024 for those interested in going on a field trip to visit the sites on the January 2024 agenda.

INTERPRETATION SERVICES

Language interpretation service in Spanish, Arabic and Kurdish is available for Planning Commission meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>

NOTE TO THE PUBLIC

Residents/Media will be able to attend the meeting.

The Public can also view the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3

A phone line will also be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Residents also may provide comment prior to the meeting by visiting this page: www.harrisonburgva.gov/agenda-comments