



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street

Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgcommdev.com/>

Telephone: (540) 432-7700 Fax: (540) 432-7777

May 5, 2015

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Alan E. Strawderman to rezone a 0.45-acre parcel zoned B-2C, General Business District Conditional by amending existing proffers that were approved when the property was rezoned in 2009. The property is located at 1320 Port Republic Road and is identified as tax map parcel 88-C-6.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: April 8, 2015

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

Mr. Baugh recused himself from the meeting at this time 7:00 p.m.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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

Site: A 4,555 sq. ft. commercial building and parking lot, zoned B-2C

North: Single family home at the intersection of Port Republic Road and Nelson Drive, zoned R-1

East: Non-conforming mobile home park, zoned R-1

South: Portion of mobile home park parcel, zoned R-1 and further south, ComSonics, zoned M-1

West: Across Port Republic Road, single family homes, zoned R-1

The applicant is requesting to rezone a 19,602 +/- square foot parcel zoned B-2C, General Business District Conditional by amending existing proffers that were approved when the property was rezoned in 2009. If approved, at this time, the property owner's plan is to lease the 4,555 square foot building for a convenience store. The property is located at 1320 Port Republic Road, less than 900 feet from the City limits, between Nelson Drive and Portland Drive on the northeastern side of the street.

Before getting into the details of the proposed request, some of the history of this property should be known and one must understand how the unusual circumstances involving the property's 2009-approved applications for a rezoning and a special use permit (SUP), together, strictly control how the property can currently be used.

The subject parcel was annexed into the City in 1983 and had a convenience store operating on-site, which staff believes began during the 1960s. Upon annexation, the property was given an R-1, Single Family Residential District zoning classification; therefore, the use of the property was immediately a non-conforming use. The site was also non-conforming to minimum parking requirements and the building was non-conforming to setback regulations. The building was (and remains) 5.7 feet from the eastern property line and, on average, 2.3 feet from the southern property line.

In 2004, the previous property owner (Ellen Desarno) received approval of a SUP per Section 10-3-34 (1) to operate a daycare within the R-1 zoning district with the condition that the hours of operation be limited from 6:00 a.m. to 9:00 p.m. Because daycare facilities and retail operations have their minimum required parking spaces calculated under the same requirement, at 1 space per 200 square feet of gross floor area for buildings 10,000 square feet or less, the operators of the daycare facility were not required to increase the number of parking spaces as they could take advantage of the non-conforming parking situation.

In November 2008, Ms. Desarno requested to rezone the property from R-1 to B-2C, General Business District Conditional with six proffers. Because the daycare operated on-site for more than 24 consecutive months, the site lost its non-conforming retail status. Staff recommended denial of that rezoning stating that: the proposal was not in conformance with the Comprehensive Plan, there were other properties already located along Port Republic Road zoned for the proposed use, and we believed it would have set a precedent for other property owners requesting a commercial zoning classification—a trend we did not want to see occur since there was (and remains) large tracts of undeveloped properties zoned and planned for single family home neighborhoods. We noted that if the property were rezoned to the B-2 district, the building would be further from conforming to setback regulations because B-2 properties have increased yard requirements when abutting residential districts. We further noted that if the property had merit for rezoning, we did not believe it should be allowed for commercial uses. This was recognized because the lower portion of Ashby Meadows, the development across Port Republic Road from the site, had already been successfully rezoned to R-3C, which among other proffers, only allowed medical and professional office uses. Planning Commission unanimously (6-0 with one recusal/abstention) recommended denial of the Desarno rezoning; however, City Council voted (4-0 with one abstention) in December 2008 to approve the request. (The rezoning did not become official until the consent agenda approval in January 2009.)

During the Planning Commission review of the 2008 rezoning request, staff noted that if approval of the rezoning was desired, “[we] suggest[ed] tabling the application for a month to allow the applicant’s representative to compose a more comprehensible proffer statement. Although staff [understood] the letters objective, we [had] concern that in the future it could cause inconsistent interpretation of the statement’s intent.” The applicant amended proffers between the Planning Commission and City Council public hearings; those proffers are what govern the property today. Unfortunately, the proffer statement was approved with one strangely crafted statement that oddly connects the conditional zoning to a subsequently approved conditioned SUP, which in the end complicates how the property can be used.

The existing proffers along with the approved conditioned SUP strictly regulate the uses of the property. The existing proffers include the following (written verbatim):

1. The “by right” use of the property is limited to mercantile establishments and accessory uses, including those which promote the show, sale and rental of goods or equipment for impaired, handicapped or disabled persons, inclusive of goods or equipment for their medical treatment or

rehabilitation or mobility or transportation, under Section 10-3-90 (1) and (15) of the Code of the City of Harrisonburg.

2. The existing playground area will be maintained in its present state and will not be paved, except as provided for the purposes of the special use permit for the property.
3. If in the future exterior lighting is regulated by a City ordinance applicable to the B-2, General Business zone, then the property will comply with the regulations at that time.
4. The building will not be open later than 9:00 o'clock p.m.
5. No drive-thru, restaurant or shopping center uses will be allowed.
6. Any freestanding sign on the property will be restricted to 24 square feet and 6 feet in height.

While the rezoning with the above proffers was being reviewed (and ultimately approved), Ms. Desarno had already submitted a SUP application requesting for the reduction in required parking per Section 10-3-91 (8). Twenty-three parking spaces were required and the applicant requested to maintain the existing 17 spaces—a reduction of six spaces. As required by the SUP, "...an amount of open space equal to the amount of space that would have been used for the required number of parking spaces [must be] left available for parking in the event that it is needed at some time in the future." The SUP was approved, and along with the requirement as stated, the condition was added that it be applicable only for the business of VIP Scooters.

Although proffer #1 above states that all uses permitted by 10-3-90 (1) and (15), (exclusive of drive-thrus, restaurants, and shopping centers, and personal service establishments—a use that was not listed as being permissible) shall be permitted, proffer #2 oddly connects the conditioned SUP to the proffers and effectively limits the uses that can operate on the site. This is because, unless a use substantially the same as VIP Scooters operates on site or the building is reduced in size or a smaller building is constructed in turn reducing parking requirements, the existing building's size requires 23 parking spaces for retail uses and it appears those spaces cannot physically fit on the property without utilizing the playground area, which is proffered to be "maintained in its present state" and "not be paved." The clause the applicant provided within proffer #2, which states: "except as provided for the purposes of the special use permit for the property" was meant to allow parking to be added within the existing playground area if so ordered later by the City because more parking was deemed necessary.

Because of the existing strict limitations, the current property owner (Alan E. "Butch" Strawderman) is requesting to rezone the property by amending the existing proffers. The applicant has submitted the following new proffers (written verbatim):

1. Use Restrictions: All uses delineated in Harrisonburg's Zoning Ordinance, Article Q. B-2 General Business District, § 10-3-90 (1) and (15) shall be permitted on the Property. Except that no drive-thru, restaurant or shopping centers will be allowed.
2. Sign restrictions:
 - a. The total square footage of all freestanding signs will not exceed 24 sf (each side).
 - b. The freestanding sign height will be limited to 6 feet.
 - c. No electronic message boards or flashing signs shall be permitted on site.
3. The building will not be open later than 11:00 o'clock p.m. and not open before 6:00 o'clock a.m.

4. A six-foot opaque privacy fence shall be installed adjacent to any new parking lot area along the northern and eastern property lines. In addition, an evergreen vegetated screen shall be installed along the same boundaries. At the time of planting, such plantings shall be at least six feet in height and planted a minimum of seven feet on center so as to form a dense screen. Such vegetation shall be maintained and replaced when necessary.

In addition to the proffers, the applicant supplied a planned layout of the site. Note that this layout is not proffered, but rather illustrates how the site could accommodate the required 23 parking spaces as well as demonstrating the general appearance and location of the proffered fencing and evergreen plantings as specified in proffer #4.

If the request is approved, the differences between the currently permitted uses and what the proposed proffers would allow includes the following: 1) personal service establishments would be added as an allowable use along with the previously permitted mercantile establishments, which promote the show, sale and rental of goods—the site would no longer be required to permit only a use substantially the same as VIP Scooters, or for the building to be renovated and reduced in size or a new smaller building constructed in its place so that minimum parking requirements could be met; 2) the open space area north of the building could be fully utilized for any of the allowed uses including it being a parking area for those uses; 3) the site could operate until 11:00 p.m. rather than being limited to 9:00 p.m.; 4) no electronic message boards or flashing signs would be permitted along with the current sign restrictions; and 5) the site would be required to screen any new parking lot area along the northern and eastern property lines with a six-foot privacy fence and a dense evergreen screen.

Although some may believe there are few differences, staff believes those differences are quite impactful and is recommending denial of the request.

First, the Comprehensive Plan's Land Use Guide designation for this property is Low Density Residential; thus, the existing zoning and the proposed zoning does not conform to the Land Use Guide. Those who participated in the 2011 Comprehensive Plan update should remember that we focused on this corridor and analyzed whether the land use designations should be changed. As a result of that analysis, it was recommended, and approved, for the properties fronting Port Republic Road on the southwestern side of the street, between the CVS property at the intersection of Peach Grove Avenue and the City limits, to have the Professional land use designation. No changes were recommended on the opposite side of Port Republic Road.

Second, the lessening of the proffered conditions would make this site more attractive to retail uses having a greater traffic impact. Although the intended use met the threshold for potentially being required to perform a traffic impact analysis (TIA), the Department of Public Works chose not to require the TIA. Included within the packet is the "Determination of Need for a Traffic Impact Analysis" form, which includes the Department of Public Works' comment that "Port Republic Road was recently reconstructed to a 5-lane facility and provides a center turn lane that can be used to access this site. It is the opinion of Public Works staff that additional turning lanes and/or traffic control devices will not be needed to support the traffic generated by the proposed development." Regardless, no one should draw the conclusion that rezoning this property would not have significant impact on traffic in this area. Increasing the hours of operation and increasing the number of parking spaces makes this site more suitable to the intended convenience store use, which will certainly generate more traffic than the previous retail use. The traffic that can be expected is quick in and out type traffic, which staff believes does not mix well with the shared entrance for the mobile home park or the nearby Nelson Drive intersection.

In addition to vehicular traffic, a convenience store (likely selling beer and wine) at this location would generate considerable pedestrian traffic mainly due to the student housing complex (Aspen Heights) located nearby in the County. There is no designated street crossing located near this site, and thus no opportunity for a cross walk to increase safety. Pedestrians trying to cross Port Republic Road, a five lane facility, mid-block and likely during evening and nighttime hours are not desirable situations.

An additional complicated variable regarding the concerns with increased traffic is the fact that there are five separate public school buses that stop in front of this property along Port Republic Road to serve the students that live in this area. The school bus stops include: one for Harrisonburg High School, one for Skyline Middle School, one for Stone Spring Elementary School, one special education bus for Stone Spring Elementary School, and one for Skyline Middle School serving a student in a wheelchair. After bringing this particular matter to the attention of the applicant, as is stated on the same letter as their proffers, it is their “intent to work with the adjoining mobile home park property owner and the City to provide a safe area for students to wait for the bus.”

Although the site is already zoned B-2C and school bus services have to deal with a very busy site today, further utilizing the site and increasing traffic is not desirable. During the review, staff suggested the applicant consider providing better controlled entrances to the property and that some effort should be made to limit the access to the convenience store to the northern-most entrance, especially since the additional parking will be added directly behind that entrance. We further recommended that the applicant consider ways to limit backing from parking spaces into the shared driveway that serves the residents in the mobile home park. In an effort to reduce the conflicts of customers backing into the drive aisle that serves the mobile home park, the submitted layout demonstrates a proposed landscaping island intended to place parked vehicles further from the drive aisle.

Increasing the hours of operation from 9:00 p.m. to 11:00 p.m. may seem minor; it is an incremental increase; nevertheless, that additional two hours could have big implications to surrounding residential uses. The current 9:00 p.m. time limit already has impacts on the adjacent residential uses along Nelson Drive and the mobile home park, yet these impacts from this timeframe are more compatible for the adjacent residential uses than would be an 11:00 p.m. time limit. Staff further believes approving an incremental adjustment now would ultimately be used to request approval beyond 11:00 p.m. in the future.

As was pointed out during the 2008 rezoning request, there is ample area for intense retail uses to locate in this corridor further northwest along Port Republic Road. Moving these uses further south on Port Republic Road is not compatible with the continued Low Density Residential development desired by the Comprehensive Plan. Although some may see the property at 1380 Little Sorrell Drive, the Harrisonburg Community Health Center and Williamson Hughes Pharmacy location that was rezoned to B-2C in 2010, as a precedent setting case, staff, however, does not. That rezoning was heavily proffered, which among many other details, included a proffered site layout with no entrances on Port Republic Road, specifics regarding the appearance of the building, and every B-2 commercial use was eliminated except pharmacy related retail uses while maintaining the previously permitted professional, governmental, and business office uses that were permitted when that property was zoned R-3C.

If the subject site should be approved for more intense commercial uses, staff believes it should only be done with a redeveloped site. Along with other matters that would need to be considered, the entrances/driveways for the mobile home park and the proposed business should be kept separate to limit conflicts and possible on-site safety issues.

Staff recommends denial of the rezoning/proffer amendment.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes said it was stated in the staff report that this property was not in compliance when it was annexed into the City; and there was a mention that the building footprint could be reduced to meet the parking requirement. What would be the setbacks if a new building were to be constructed on this site?

Mr. Fletcher said the setbacks would be thirty-feet from all property lines adjoining a residential zoning district and thirty-feet from the front property line as well.

Mr. Da'Mes said therefore it is thirty-feet on all property lines.

Mr. Fletcher said yes, it would be relatively restrictive.

Hearing no further questions, Chair Fitzgerald opened the public hearing and asked the applicant or the applicant's representative to speak.

Mr. Ed Blackwell with Blackwell Engineering, said he is representing Butch Strawderman, the owner and applicant for this request. I will answer many of the technical questions, but Mr. Strawderman will also address the Commission as well.

Our main concern when utilizing this building as a convenience store is to get enough parking on the site. We agree, it is an increase in the traffic from the former scooter retail store to the use that we desire; but any commercial retail use is permitted in this building currently, and we need to ensure we have enough parking for it.

The traffic increase for this size building is very negligible to the current capacity of Port Republic Road. Port Republic Road has about 8,000 trips per day right now, and it is not even close to its capacity; of course, it gets much tighter and heavier as you get close to the interstate. Most of the traffic that comes to a convenience store, such as this one we are proposing, is typically local or pass-by. Therefore, you do not have someone coming to the store from the north side of town to purchase milk and eggs; it is more of a local traffic condition. We have a lot of neighbors here with us tonight who will speak to the idea of having a local store back in the neighborhood.

We did meet with staff about the southern most driveway. It is in an easement and we cannot touch that easement and entrance; it is used for the adjoining trailer park to the rear. Thus, we cannot do a lot of modifications with that. We did provide new parking along the north end of the property and tried to pull as many parking spaces away from the south end of the building. We added a landscaping island as well, to help mitigate our parking from interfering with the trailer park driveway. We did not proffer this site drawing; but, if that is a need, we can proffer that landscaping island as it is shown on the drawing.

There are a lot of children that ride the school bus from this site. We have talked to the neighbors and they attest that parents generally come to the bus stop with the children. We are willing to work with the trailer park about putting a small bus stop there, perhaps a concrete pad with a bench. It is not something we can proffer because it would be on the trailer park property. Several school buses do stop at this location and enforcement wise, we all want people to stop for buses. We think we can help somewhat with a small bus stop area. I do think it is important to get the convenience store parking away from the school bus area, which we do with this plan.

The new parking area is required to be screened from the existing single-family neighborhoods and we are proposing a solid fence and trees.

We do have letters from all the adjoining property owners, and some are here tonight to speak. I also have about forty signatures from the neighbors that are in support of the convenience store. I do want to take the opportunity to read a couple of the comments from the neighborhood regarding the rezoning request. The neighbor to the south ComSonics, one of their executives states: "ComSonics has no reservations with the addition of the convenience store adjacent to our property. In fact, I anticipate our employees patronizing this establishment and being appreciative of its locale." From the Ramirez family, the property owners to the north of the site: "We would like to see the property rezoned to a convenience store once again. We enjoyed the store and its convenience that was there in the past. Once again, we are very much in favor of a store there." A letter from Mr. Gibson, the property owner directly across Port Republic Road states: "I have lived here many years and always enjoyed the convenience of having a store there. I support this request by Mr. Strawderman." A spokesperson for the Harrisonburg Community Health Center, which is across Port Republic Road, says "it would be good for employees to use during breaks." Linda Heatwole, also across the road is very much in favor. As you can see in the handout, there is also a letter from Rodney Eagle and a list of those persons in the trailer park that are in favor of the request.

We do understand that there are staff concerns regarding the Comprehensive Plan; but, this store being there pre-dates the City's annexation. The neighborhood liked the store then and they would like to have it back; I think that should be given some consideration. Also, we believe that the traffic issues on the southern end of the site can be mitigated by pushing parking to the north and away from the drive entrance and school bus drop-off. Adding the parking and having enough parking on the site will help to improve the situation.

If you have any questions for me I would be happy to answer them, and there are several others here tonight who would like to speak.

Chair Fitzgerald asked if the mobile home park was there at the same time as the previous convenience store, pre annexation.

Mr. Blackwell replied the mobile home park, ComSonics, the convenience store, and the Ashby Heights subdivision were all there and pre date the annexation.

Chair Fitzgerald said I had gotten to the site tour a bit early yesterday and I got a chance to watch a school bus of elementary age children arrive to the site. The children exited the bus, headed out across the parking lot and on to the mobile home park. At that point there were no parents that I saw; they may have been waiting further up the road into the park. I am a little skeptical that it is going to be easy to work out a safe way for the children to get let off the bus and to go up the drive to their homes.

Mr. Blackwell asked whether the buses drop off the children more in the center island area. If the buses would drop off at the southern end of the site, where the entrance is, then the children could go directly up the driveway and not across the parking lot.

Chair Fitzgerald said apparently where the bus comes to a stop depends a bit on the amount of traffic on Port Republic Road at the time. The smaller buses can fit in that (southern) area; but many times they end up stopping right on Port Republic Road.

Mr. Blackwell said we can work with the mobile home park with regard to placing some type of bus facility on the mobile home park property. I do not know if a City bus shelter could be placed there; we would have to check. We are willing to work on that with the adjacent property owners.

Chair Fitzgerald asked if they expected a lot of people to come across Port Republic Road from Aspen Heights.

Mr. Blackwell deferred the question to Mr. Strawderman, the property owner. I am sure they will have items that residents would want.

Mr. Da'Mes asked whether there was consideration made to ask for a reduction in parking spaces, so that there would be a bit more open space to work with.

Mr. Blackwell replied it was thought about; but, if you do not have enough parking for your use, and cars are trying to turn in to the lot and cars are backing out of stalls, it is not beneficial for the site. If you provide enough parking for your use it actually makes the maneuvering situation much better. I believe if we were to ask to reduce it below the 23 required spaces, we would be creating a traffic problem.

Mr. Da'Mes asked whether there had been consideration of closing the access off to the south for use only by the mobile home park.

Mr. Blackwell said are you suggesting we close off the business parking lot from the mobile home park entrance; because we would probably lose several spaces which would put us below the required number.

Mr. Da'Mes said you could then ask for the reduction, but it would alleviate some concern.

Mr. Blackwell said we would like to get the 23 parking spaces on site. We did put the landscaping island in along the south side of the parking to help mitigate some of the backing out into the mobile home park drive entrance. We think we will be able to keep their drive functional, even with our use. By having much of the parking on the north of the site, the northern most entrance will function as the main entrance.

Mr. Butch Strawderman, owner/developer of the property, said he would like to thank staff for helping him understand questions and issues with this project. I personally went around to the adjoining land owners and spoke with them myself. I showed them the design and layout of the parking and the site. I spoke to probably ninety percent of the residents of the mobile home park as well. Every person that I spoke to was highly in favor of this store. The previous owner, Mrs. Desarno, owned the property for 42 years, and prior to her ownership it was operated as the Seven Day Market. Mrs. Desarno emphasized that in the 42 years she owned the property, never were police, or rescue called to the site for a disturbance or any type of situation for an unruly matter. This is planned to be a simple store.

The school bus issue, I do agree is an issue. I am there many mornings and I would observe that there are at least one or two parents that walk the children down to the bus stop. If it is inclement weather, they will bring a vehicle down to the parking lot for the children to sit in. I do not know if there are parents that wait in the afternoons for children. But there will always be school bus stops near businesses; for instance the trailer park along Country Club Road. There are many more children loading and off-loading from that location than this one. But, as Chair Fitzgerald stated the safety of the children means much more to me than this rezoning; therefore, Mr. Blackwell and I have discussed what could be done to cut-off our parking from the mobile home park entrance. I want to do what is safe for the children.

I do have some folks here tonight who would like to speak to you regarding the store. Thank you, and if I can answer any questions you may have, I would be happy to do so.

Mr. Da'Mes said what consideration or arrangements have been worked out in terms of the easement within the proposed parking lot that allows for the mobile home park to move trailers in and out of their property.

Mr. Strawderman said I just recently became aware of that situation and have spoken with the land owner of the mobile home park. We could put a fence with a large gate in it. I hope that my engineer can help work something out with the adjoining property owner.

Mr. Way asked if constructing a smaller building footprint would be a viable option.

Mr. Strawderman replied no, I have never taken that idea into consideration. Obviously, I would like for this request to be approved; but, if that is not to be, then we will move on to plan "B". This is still a nice building and I have put forth quite a bit of money into upgrades and improvements into the building as well.

Hearing no further questions, Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Ms. Ina Thompson said I have lived in the mobile home park for 31 years as of March 10, 2015. I love this area and the mobile home park. I also loved having the store there and I miss it. As far as the children going in and out of the property to the bus I see no problems. The parents go in and out with the children. I live in the first trailer right behind the store and I see everything that goes on. I see no problems with this.

Mr. Terry Price, 1330 Port Republic Road, Lot 31, said he has lived there for 42 years. There was always a store there. When the store left, the owners put a day care there for a little bit and then VIP Scooters, which was not there long. Everybody misses the store being there, you do not have to get in your car and drive to Food Lion, you can pick-up items at the store. When we moved to the mobile home park, there was no Food Lion and there was not a ComSonics. We are good with a store there.

Geil and Michelle Ramirez, 1310 Port Republic Road, said our house is directly north of the property. When we moved to our home the store was there and it was one of the major reasons why my parents liked the home. We used the bus stop that you are talking about tonight. It was always a store that was used by the neighbors and it felt like it contributed a lot to the mobile home park and the people in the area.

One of the things that we really appreciate with this request is that someone came to talk to us. When the building was used for other things, no one ever came to talk with us as the neighbors and how it would affect us. This is different. Here you have a fence proposed to separate our home from the site. This was never offered with the daycare and that use started early in the morning. We really appreciate this.

When we moved in it was very easy for us to just cross over and purchase milk or something for our parents. I feel my parents miss that convenience of just the store next door and supporting someone local from the community. After the convenience store closed down, the nearest convenience store was the Liberty Station and more recently the CVS. With the market being located here, it is very convenient for this community.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion.

Mr. Fletcher said there was an earlier question regarding the setbacks and the restrictiveness of the lot. Based upon the information that is available to me here, I approximate that about a 1,500 to 2,000 square foot building could fit onto this parcel.

Mr. Da'Mes asked about the size of the existing building.

Mr. Fletcher said the existing building is about 4,500 square feet.

Mr. Da'Mes said that would reduce it to about one-half or even one-third of what is there currently. If it were a blank lot zoned commercial, B-2, they would be able to put a 1,500 to 2,000 square foot building on the site.

Mr. Fletcher said no, if it were a blank lot, zoned B-2, with no proffers, the building could potentially be bigger than that. But with the existing proffers, you could not construct to the northern line because of the existing grass area proffer. So given that proffer and the existing thirty-foot setback restrictions, we anticipate a 1,500 to 2,000 square foot building with eight to ten parking spaces.

Mr. Da'Mes said I just cannot help but think we are in a different place from where we were twenty or thirty years ago and what Port Republic Road looked like and what its intent was. In doing the Comprehensive Plan we evaluated the move of the hospital, we anticipated the growth of JMU along Port Republic Road, the intersection at Peach Grove Avenue, many changes in this area. Within those changes there have been new businesses move in to support the community. I believe our thought process at that time is still applicable today in terms of what ideally supports the Port Republic Road corridor, which would be the western side being professional offices and the eastern side would be to keep it as conforming to residential as we can. The idea of a convenience store is wonderful; but I do not think it suits the overall picture for today's use.

Mr. Way asked whether Mr. Da'Mes was thinking of the overall picture of the corridor and the quality of the street or the quality of the neighborhood.

Chair Fitzgerald asked if they were talking about the long term land approach that we examined rather carefully during the last Comprehensive Plan update.

Mr. Da'Mes said yes, the land approach. For example, across the street where we approved a commercial use, very conditional use, that one was significantly different in that it was very contained; but it was a blank slate where they were able to address a lot of issues and our concerns up front. One in particular was that they brought the access to the facility off of Port Republic Road onto another street; not a movement in and out of Port Republic Road.

Chair Fitzgerald said I find myself on that same page, with the added problem of a five lane road now, throw in college students across the street and five school buses stopping there. When I watched the kids get off the bus this week, they just flew out through the parking lot; so I have concerns about that. I believe it will be harder to address once you get down to doing something about it. I am also convinced by the long term planning, that if we can hold the line here, it is worth doing.

Mr. Colman said I like the idea of a neighborhood convenience store, certainly the neighbors like it. I think some of the issues that have been brought up are certainly a concern – the school buses, the potential of students cutting across the street without any clear crossings. The access easement along the south side of the property certainly limits the applicant's ability to close the entrance entirely. However, I do believe that this could be configured in a different way; perhaps with a special use for lesser parking.

Mr. Way said the Land Use Guide is an interesting one here in terms of exactly the things you are talking about. We had a case last time where we had a lot of debate and discussion back and forth regarding an area that was already zoned B-2 and conforming to the Land Use Guide. Here we are in a situation that is a bit different. I actually think you can fit something in there that would be do-able and it appeals to the community. My main anxiety is what is going to happen to all those properties further down Port Republic Road; what is the precedent that is being set? I see the problems with that.

Dr. Dilts said I think we have to pay attention to the Comprehensive Plan. We spent a lot of time looking that over, discussing it and we have made a commitment to it. With that, I move to recommend denial of the rezoning request.

Mr. Da'Mes said I second the motion to recommend denial of the rezoning request to B-2 Conditional.

Chair Fitzgerald asked if there was any additional discussion. Hearing none, she called for a roll call vote.

Commissioner Da'Mes – yes.

Commissioner Colman – yes.

Commissioner Heatwole – yes.

Commissioner Way – yes.

Commissioner Dilts – yes.

Chair Fitzgerald – yes.

Chair Fitzgerald said the motion passes (6-0). This request will go to City Council on May 12th.

Mr. Baugh returned to the Council Chambers at 8:10 p.m.

Respectfully submitted,

Alison Banks
Planner