



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

June 29, 2017

### TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

**SUBJECT:** Public hearing to consider a request from Marusstodd, Properties, LLC with representative Blackwell Engineering to amend the Zoning Ordinance Section 10-3-55.4, Uses permitted by Special Use Permit in the R-5, High Density Residential District. The amendment would add “business and professional offices” as a use permitted by special use permit in the R-5 zoning district. Specifically, the amendment would add “business and professional offices” to the existing uses listed in Section 10-3-55.4 (4), which currently includes “Retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities).” All uses permitted by Section 10-3-55.4 (4) must adhere to the conditions set forth in subsections 10-3-55.6 (f) and (g).

### EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: May 10 2017

Chair Way read the request and asked staff to review.

Ms. Dang said The R-5, High Density Residential District was added to the Zoning Ordinance in April 2007. At the time of its adoption, no properties were proactively rezoned to the R-5 district. Because there were no proactive rezonings, property owners wishing to develop using the R-5 regulations must submit a rezoning application; a process which allows the City greater evaluation of the potential impacts of the rezoning and proposed development. To date, there have been six requests approved to rezone properties to R-5.

The R-5, High Density Residential district’s purpose as stated in the Zoning Ordinance “is intended for medium to high density residential development, including townhouses and multiple-family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and shared use paths, so as to provide many choices with regard to mode and route, and to provide a safe and comfortable pedestrian environment that promotes walkability for residents and visitors.”

Zoning Ordinance Section 10-3-55.4 (4) of the R-5, High Density Residential District currently allows by special use permit “[r]etail stores, convenience shops, personal service establishments, [and] restaurants (excluding those with drive-through facilities) under conditions set forth in subsections 10-3-55.6(f) and (g) and such other conditions deemed necessary by city council.”

Subsection 10-3-55.6(f) states that the uses allowed by special use permit “shall be integrated into the residential community so as to not adversely affect local traffic patterns and levels and views from surrounding residential areas and public streets. Such integration shall be achieved through effective site planning, compatible architectural design, and landscaping and screening of parking lots, utilities, mechanical/electrical/telecommunications equipment and service/refuse functions. Buildings shall be

residential in design and scale with floorplates not exceeding seven thousand five hundred (7,500) square feet.”

Furthermore, Subsection 10-3-55.6(g) states that mixed use buildings comprised of nonresidential uses allowed by special use permit and multiple-family dwellings are to have “[a]n area of the building up to the entire first floor may be devoted to nonresidential uses, whatever the size of the building floorplate. The multiple-family dwelling units within mixed use buildings shall be included in the total number of dwelling units in the development and therefore in the calculation of the density for the development. The maximum total number of stories and maximum height of mixed use buildings shall be the same as for buildings comprised entirely of multiple-family dwellings. The standards of subsection (f) shall apply to mixed use buildings, except for the limitations on maximum floorplate.”

The applicant is requesting to amend the Zoning Ordinance Section 10-3-55.4 (4) to add “business and professional offices” as additional uses permitted by special use permit as shown:

“Retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities), and business and professional offices under conditions set forth in subsections 10-3-55.6(f) and (g) and such other conditions deemed necessary by city council.”

Staff is comfortable with this amendment because there is a requirement for property owners to apply for a special use permit in order to add business and professional offices. Additionally, business and professional offices generally have less impact than would the other uses permitted by special use in 10-3-55.4 (4). Through the special use permit process, proposals would be reviewed on a case-by-case basis for potential impacts to surrounding residential areas and would require City Council approval.

Staff recommends approval of the proposed Zoning Ordinance amendment as presented.

Chair Way asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if anyone would like to speak in favor of this request.

Dick Blackwell, Blackwell Engineering, said this gives additional R-5 uses that are under special use, like restaurants and other items. This allows business or professional use, which seemed appropriate.

Chair Ways asked if there were any questions for Mr. Blackwell. Hearing none, he asked if anyone would like to speak in favor or against the request.

Jonathan Walker, 1419 Bluestone Street, said I think it is unnecessary to make a blanket change in this; this can be done on a case-by-case basis so there is no reason to go ahead and make a blanket change.

Mr. Baugh said actually that is the point; it cannot. This will allow it to be done on a case-by-case basis. Right now it is prohibited.

Mr. Walker said I just want to make sure of that.

Chair Way asked if anyone else would like to speak in favor or against this request. Hearing none, he closed the public hearing and asked Planning Commission for a motion on the request for the purpose of discussion.

Mr. Baugh said I am the only non-staff person that was around when we wrote the R-5 ordinance. My recollection is that this was discussed; it was part of a process where R-5, R-6, R-7 and Mixed Use, all were written out of that process. This was discussed and we decided not to include it and I do not think there was really a whole lot behind it other than a sense as we were creating the zoning categories that maybe the business and professional was more mixed use rather than in one of the residential categories and sort of made that call and went with it and now we are 10 years later with real world experience and probably looks like it would not hurt anything to do this.

Mr. Fletcher said that summarizes it. Originally, it was designed as an idea where the special uses that were listed would be service oriented uses; services provided to the residents that either live on site or in the greater community. In fact, that is why we do these things. You have to let it play out and if you see the need to add those uses back in, then you go for it.

Mr. Finks said the only thing I would bring up is I wonder with us currently working on the Land Use Guide in the Comprehensive Plan if this is something to think about, I am not advocating for this, but is this something we should wait to see if we come up with this from the new Comprehensive Plan and Land Use Guide; not make this decision now and see what comes out of the various committees.

Mrs. Fitzgerald said there have been discussions about a possible ordinance review, which I think often happens after a Comprehensive Plan re-write just as a matter of course, so there is some good reason to postpone doing this for awhile.

Mr. Finnegan said I would second that concern; we are putting a lot of work, a lot of time into the Comprehensive Plan looking at that what needs to change. I feel like making a decision here now may not be the most appropriate time and place to do that given that we are in that process.

Mr. Baugh said let me throw a couple of thoughts and again this is all part of the evolution and we do not really know and we pay a lot of attention to the Comprehensive Plan process. My instincts tell me the forces are going to be asking us to find ways to be more flexible about things, not more rigid and this is in that direction. Another piece, and we are seeing it in this proposal, but it has really come up with some of the other R-5's; R-5 right now is kind of the defacto of mixed use, it is seen that way. This would be consistent with that. I would be very surprised if whatever comes out of the Comprehensive Plan process would be something that says we should reign some of this R-5 stuff back in.

Chair Way said I am supportive of including the amendment, I think it is noncontroversial and I feel like we make amendments, ordinances with some regularity. I know it is connected to the upcoming business, but I do not see where it is surprising about the timing.

Mr. Colman said adding that special use permit to that zoning seems to enhance it. I do not necessarily feel like this will be a controversial item in the Comprehensive Plan review, in the contrary I think this is something we want there. I am supportive of it.

Mr. Fletcher said I would like to clarify that it is a special use permit. If someone were to request a special use permit of this particular category, like we are going to have in a moment, then this body and City Council have the ability to place conditions on them.

Chair Way asked for any further discussions or motion to this request.

Mr. Colman moved to approve the request of the Zoning Ordinance amendment – Section 10-3-55.4, Uses permitted only by special Use Permit, to allow Business and Professional Offices as presented by staff.

Mrs. Fitzgerald seconded the motion.

Chair Way called for a roll-call vote:

Commissioner Colman – Yes

Commissioner Whitten – Yes

Commissioner Fitzgerald – Yes

Commissioner Baugh – Yes

Commissioner Finks – Yes

Commissioner Finnegan – Yes

Chair Way – Yes

Chair Way said the final vote was six to zero (6-0) to approve the request of the zoning ordinance amendment – Section 10-3-55.4, Uses permitted only by special Use Permit, to allow Business and Professional Offices as presented by staff.

Chair Way said this will go forward to City Council on June 13, 2017

Respectfully Submitted,

*Alison Banks*

Alison Banks  
Senior Planner